

Joachim W. Horst and Helga C. Horst

v.

Town of Deerfield

Docket No. 10730-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$100,200 (land, \$47,700; building, \$52,500) on a house with a 5-acre lot (the Property). The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because it had increased from \$15,300 to \$100,200 between 1974 to 1991 without any improvements to the Property. The Taxpayers then asserted the Town must prove the assessment was proper.

The Town argued the assessment was proper because:

1) four comparables indicated the Taxpayers' assessment was equitable; and

#10730-90, Horst v. Deerfield

Page 2

2) it was fair and equitable.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report recommended a 10% functional building value. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

Board Rulings

The board finds the Taxpayers failed to prove the Property's assessment was disproportionality. The Taxpayers only argument was the assessment increase was inappropriate. Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

We have not adopted the inspector's report because of the total lack of

any market data from the Taxpayers.

#10730-90, Horst v. Deerfield

Page 3

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joachim W. & Helga C. Horst, Taxpayers; and the Chairman, Selectmen of Deerfield.

Melanie J. Ekstrom, Deputy Clerk

Date: June 16, 1993