

Linda A. Granger

v.

Town of New Boston

Docket No.: 8503-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$189,550 (land - \$47,050, buildings - \$142,300) on a single-family home on 18.8 acres (16.8 acres are assessed in current use) on McCurdy Road (the Property). The Taxpayer 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 Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the assessment is high compared to similar properties and the market value;

- 2) their house is assessed at least \$22,000 more than thirteen other comparable homes; and
- 3) the house is still under construction.

The Town argued the assessment was proper because:

- 1) the value was based on a two-acre homesite with 16.8 acres in current use;

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- 2) a 5 percent reduction to the replacement value was allowed for unfinished portions of the house;
- 3) the house is properly graded above average with stone exterior as well as overall interior and other exterior features accounted for in the grade;
- 4) the Property has a nice view; and
- 5) the total assessment is consistent with the Property's fair market value as of April 1, 1990.

#### **Board's Rulings**

The board is not obligated or empowered to establish a fair market value of the Property. Appeal of Public Service Company of New Hampshire, 120 N.H. 830, 833 (1980). Rather, we must determine whether the assessment has resulted in the Taxpayer paying an unfair share of taxes. See Id. Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975).

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer 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.

The Taxpayer's list of 13 other building values was not relied upon because the Taxpayers did not submit any data or photographs by which the board could review the comparability of these properties to the Taxpayer's Property.

The board's inspector reviewed the file and property tax card, and

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filed a report with the board. This report concluded the following: "4-1-90 no change in general value."

Based on the evidence, the board finds the Taxpayer failed to prove disproportionality, and the Town's assessment is accurate.

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

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Linda A. Granger, Taxpayer, and Chairman, Selectmen of New Boston.

Dated: October 28, 1992

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Melanie J. Ekstrom, Deputy Clerk