

**Phillip C. Sorensen and Christopher Staker**

**v.**

**Town of Greenville**

**Docket No.: 8519-90PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$108,900 (land \$18,300; buildings \$90,600) on a 9,147 square-foot lot with a house (the Property). For the reasons stated below, the appeal for abatement is granted.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried their burden of proof.

The Taxpayers argued the assessment was excessive because the Town had increased the assessment in 1989 and 1990 without any improvements being made and then adjusted the value to \$90,400 in 1991 but would not abate the 1990 tax.

The Town was not present at the hearing but sent a letter stating the assessment had been reduced and abated to \$90,400 for the 1991 tax year,

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but offered no justification for refusing to reduce the 1990 assessment accordingly.

### Board's Rulings

The board finds the Town failed to show or even suggest the basis for refusing to apply the 1991 abatement to 1990. The Taxpayers testified that no changes (improvements) were made to the Property in 1990 and in fact, the house was partially gutted for future renovations.

Based on the evidence, we find the correct assessment for 1990 should be \$90,400 (land \$18,300; building \$72,100). This assessment is ordered because the 1990 assessment should have been adjusted to the 1991 abated valuation.

The board further orders the Town to reimburse the Taxpayers for the \$40.00 application fee as well as \$15.00 for mileage expense to and from Concord (60 miles X \$.25 per mile). This appeal should have been settled by the Town, given the facts presented to the board of tax and land appeals at the hearing.

If the taxes have been paid, the amount paid on the value in excess of \$90,400 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:16-a (Supp. 1991), RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1991, 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within twenty (20) days of

the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Phillip C. Sorensen and Christopher Staker, Taxpayers; and Chairman, Selectmen of Greenville.

Dated: June 2, 1994

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Valerie B. Lanigan, Clerk

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