

**John C. Morrison and Mary Jane Morrison**

**v.**

**Town of Holderness**

**Docket No. 8622-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$370,900 (land, \$340,000; buildings, \$30,900) on a cottage on Morrison's Island on Squam Lake (the Property). 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 their burden and prove any disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the assessment was out of line with the Property's fair market value;
- 2) the Property is seasonal and has all the inconveniences of island living (e.g., transportation, supplies, insurance costs, lack of town services); and
- 3) an April 1, 1990 appraisal letter estimated a \$189,000 land value.

The Town argued the assessment was proper because:

- 1) the Taxpayer sold the Property July 1991 for \$350,000; and
- 2) the same methodology was used in assessing the Property as was used in other properties.

We find the Taxpayers failed to prove their assessment was disproportional. We also find the Town supported the Property's assessment. The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town of Holderness. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayers' last submission was on July 24, 1991, and the Property sold on July 31, 1991. The Taxpayers did not, however, inform the board of the Property's marketing or sale! No, the Taxpayers continued with their appeal when they knew the Property was worth the assessment. If the board had accepted the Taxpayers' argument, the assessment would have been \$219,900 (land, \$189,000; building, \$30,900). This would be only 37 percent of the Property's 1991 sales value! The preliminary equalized ratio for 1991 shows values dropped 4 percent from 1990-1991. Trending the 1991 sales price to 1990 results in \$364,000, which is almost the assessment. Because of the Taxpayers' nondisclosure, even in July 1991, the board is ordering the Taxpayers to pay the Town's costs in defending the assessment. See RSA 71-B:9. This appeal was frivolously maintained, and the Taxpayers misled the board and probably deceived the board. This type of behavior cannot be tolerated in a system that assumes people are honest and forthright. The Town shall, within 20 days, submit the costs incurred defending this appeal and

copy the Taxpayers with that itemization. The board will review the costs and enter an appropriate order.

In a similar vein, the board must comment on the appraisal letter signed by Mr. Jack Armstrong. Obviously, the 1991 sales has shown how erroneous his appraisal was. We remind Mr. Armstrong of an appraiser's job to be more objective than advocative.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the within decision have been mailed this date, postage prepaid, to John C. and Mary Jane Morrison, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Holderness.

April 2, 1992

Melanie J. Ekstrom, Deputy Clerk