

George Fournier and Eugenie Fournier

v.

Greenville

Docket No.: 8772-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$66,000 on five acres off Route 31 (the Property). (Note: The Taxpayers' appeal did not state which properties were appealed. However, evidence was only presented on Lot 2-37-1, a five-acre lot assessed for \$66,000.) The Taxpayer's 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 and prove any disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) a 1988 revaluation assessed the Property for \$15,200;
- 2) in 1989 the Town had stated the assessment would be increased to \$52,000 because the property has a right-of-way to the highway, but on April 1, 1990, the Town raised the assessment to \$66,000; and
- 3) other properties with similar assessments have substantial road frontage.

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The Town was finally defaulted and did not submit any evidence.

Board's Rulings

Increases from past assessments are not evidence that a Taxpayer's property is disproportionally 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.

The revised assessment card indicates the Property has access problems and thus, an adjustment was made. The Taxpayers did not detail the location or length of the right-of-way or provide evidence that the right-of-way affected the Property's value. Without this information, the board was unable to properly review the assessment. The appeal is denied for failure to prove.

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

Ignatius MacLellan, Esq., Member

Paul B. Franklin, Member

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I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to George and Eugenie Fournier, Taxpayers, and Selectmen of Greenville.

Dated: October 1, 1992

Melanie J. Ekstrom, Deputy Clerk

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