

David P. and Marilyn J. Styles

v.

Town of Middleton

Docket No.: 8999-90PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$125,600 (land \$69,550; buildings \$56,050) on a lot on Sunrise Lake with a camp (the Property). The Taxpayers requested a waiver of their attendance at the hearing pursuant to board rule TAX 202.06(d) and, therefore, this decision is based in part on evidence and arguments previously submitted by the Taxpayers. 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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to meet their burden of proof and prove disproportionality.

The Taxpayers argued the assessment was excessive because the Property sold in September 1991 for \$120,000 including \$10,000 for personal property and should be assessed for what it sold for.

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The Town argued the assessment was proper because:

- (1) the Property was one of the sales considered during the reassessment ordered by the board of tax and land appeals;
- (2) the tax stamps indicated a sale price of \$125,000 while the purchase and sales agreement indicated the gross sales price was \$120,000 with personal property of \$10,000; and
- (3) the assessed value of \$125,600 if adjusted by the 1991 equalization ratio of 1.07 indicates a market value of \$117,383 which is within 6% of the sale price.

Board's Rulings

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The Taxpayers argued the sales price should be controlling of the assessment. While it is true the sales price of the Property is good evidence of the market value (if the sale is arms-length in nature), all other market evidence needs to be considered because there is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979). The focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). The board finds the other market evidence submitted by the Town (Exhibit - A) supports the methodology and the assessment placed on the

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Taxpayers' Property. As noted by the Town the equalized assessment is within 6% of the sales price, - within an acceptable range given the volatility of the seasonal property market in the 1990 - 1991 time frame.

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

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to David P. and Marilyn J. Styles, Taxpayers; Mary E. Pinkham-Langer, Agent for the Town of Middleton; and Chairman, Selectmen of Middleton.

Dated: June 3, 1994

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Valerie B. Lanigan, Clerk