

Wilfrid R. Venne and Carmela Venne

v.

Town of Goffstown

Docket No.: 9300-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$74,600 land, \$47,900; building, \$26,700) consisting of a summer camp, Map 42, Lot 60 (the Property). The Taxpayers 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.

The Taxpayers argued the assessment was excessive because:

- 1) the Property is unfinished inside; and
- 2) it should be abated for hardship reasons.

The Town argued the assessment was proper because:

- 1) an abatement was granted in 1989 for the inside being unfinished; and
- 2) they do not grant hardship abatements on second homes.

#### Board Findings

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

It is unclear in the Taxpayers' appeal as to what type of abatement they are requesting, although it appears predicated upon Mr. Venne's various illnesses. However, the statute and case law provides for only two criterias under which the Taxpayers would be eligible:

1) "RSA 76:16-a empowers the board to order abatements" as justice requires, "which includes abating taxes for poverty and inability to pay. The standards for making such an order are enunciated in Ansara v. City of Nashua, 118 N.H. 879, (1978)." The Taxpayers, however, did not submit any specific evidence as to their income and expenses. The amount of equity they have in the property or any evidence why it would not be reasonable for them to "relocate, refinance, or otherwise obtain additional public assistance." Id. at 881. Therefore, under this provision the Taxpayers do not qualify for this abatement.

2) RSA 72:35 provides for a \$700 tax credit for persons who have various service connected disabilities. The Taxpayers do not qualify for an abatement under this statute for two reasons:

1) Mr. Venne did not show any evidence that his illnesses were of the nature of those described in the statute; and

2) Even if he had, 72:35 (II) provides that the exemption be applied to the property "which is occupied as the principal place of abode by the disabled person or the surviving spouse." It appears from the evidence supplied with this appeal that the Property is not the Taxpayers' principal place of abode.

In arriving at this decision, the board is not any less sympathetic of the Taxpayers' difficulties; however, the board only has jurisdiction to grant abatements where there are provisions by statute or case law. None were found in this case based on the evidence submitted.

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

\_\_\_\_\_  
Paul B. Franklin, Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Wilfrid & Carmela Venne, taxpayers; and the Chairman, Selectmen of Goffstown.

Date: December 28, 1992

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Melanie J. Ekstrom, Deputy Clerk

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**ORDER**

The board received a letter from the "Taxpayers" on January 18, 1993 which the board will consider as a motion for reconsideration. The letter proffered information about the unfinished nature of the camp. The board denies the motion for reconsideration as the Taxpayers now wish to submit evidence which existed at the time of their appeal but was not submitted. Rehearings are not intended to allow the parties to have a second bite of the apple.

The Taxpayers' primary basis for the appeal was for a hardship abatement. The Taxpayers had mentioned that the camp was unfinished only on their application for abatement with the Town. The Town responded that it had adjusted for the interior being unfinished in 1989. No further evidence was submitted by either parties on this issue at the time of the appeal. Therefore, based on the facts, the board did not feel the unfinished issue warranted any further reduction.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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CONCURRED, UNAVAILABLE FOR SIGNATURE  
Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, to Wilfrid and Carmela Venne, Taxpayers; and Chairman, Selectmen of Goffstown.

Dated: January 27, 1993

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Melanie J. Ekstrom, Deputy Clerk