

**John S. Kearns**

**v.**

**Town of Goffstown**

**Docket No.: 9302-90**

**DECISION**

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1990 adjusted assessment of \$192,300 (land only) consisting of 53 +/- acres of vacant land (the Property). The Taxpayer 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 Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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).

The Taxpayer argued the adjusted assessment was excessive because:

- 1) the land's topography limits potential development;
- 2) the Property has certain limiting factors -- relatively little frontage, wetlands, shape and location in a conservation district;
- 3) the market has declined sharply since 1988;

- 4) the Property was on the market for approximately seven months with no offers; and
- 5) after consulting with three real estate professionals, the assessment should be \$125,000.

The Town argued the adjusted assessment was proper because:

- 1) the Property has the potential for two lots;
- 2) the Property was equitably assessed as shown by the comparables; and
- 3) in 1990, 50 acres were assessed, not 53.13 (which has been corrected for the 1991 tax year);

#### Board Rulings

Based on the evidence, we find the Taxpayer failed to carry this burden and proved disproportionality.

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer 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. Furthermore, the Taxpayer's stated the Property was worth only \$125,000, however, no date was given for the estimate and no material was submitted for the board to review to support the estimate. The board gave little or no weight to the Taxpayer's assertion that the Property was listed in 1989 and 1990 and no offers close to the assessment were received since the Taxpayer did not state the listing price or how the Property was listed and advertised.

The Taxpayer argued the assessment should be reduced because the market for the property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value at a rate disproportionate to the change in the general level of assessment in the Town as a whole to prove his Property is disproportionately assessed.

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John S. Kearns, taxpayer; and the Chairman, Selectmen of Goffstown.

Date: December 8, 1992

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Melanie J. Ekstrom, Deputy Clerk

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