

James E. Donini

v.

Town of Pittsfield

Docket No.: 9416-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$93,616 (land \$32,116; buildings \$61,700) on Lot 16B, a 9.70-acre lot with a house. A preliminary issue was raised during the processing of the appeal of whether the Taxpayer had filed an RSA 74:4 inventory form ("form") for the 1990 tax year. A hearing was held on August 11, 1993 at which time the board received evidence on both the inventory filing issue and the merits of the case.

The Taxpayer stated he had timely mailed the form to the Town but had not requested a receipt of the form nor kept a copy of the submitted form. The Taxpayer argued the Town had most likely misplaced the form.

The Town testified a form had been sent the Taxpayer with a mailing label generated from the same computerized master list that the returned forms were checked off against. One town staff member handled all the returned forms and checked the names on the list (Exhibit TN-A) as the forms were returned. Further, the entire file of 1990 forms was carefully checked to ensure the form had not been misfiled.

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Board's Ruling

Based on the evidence, the board rules it does not have jurisdiction to render a decision on the merits of this appeal because the Taxpayer did not timely file the form pursuant to RSA 74:7 and therefore lost his right to appeal pursuant to RSA 74:7-a.

"The powers of the board and the rights of taxpayers appearing before the board are entirely statutory and are limited by the terms of the statutes" Appeal of the Town of Sunapee, 126 N.H. 214, 216 (1985)

The pertinent portion of RSA 74:7-a states: *** "(a)ny person who fails to file an inventory form and who becomes liable to pay the penalty specified in this section shall lose his right to appeal any matter pertaining to the property tax for which he is liable."

The Taxpayer has the burden of proving he did file a form in timely fashion. The Taxpayer submitted no documentation of the filing, only his statement that he did. The Town presented documentation of a systematic procedure for sending and receiving the forms that indicated the Taxpayer had not filed his form. The Town also did a manual file search which indicated the form had not been misfiled.

Therefore, the appeal is dismissed.

In closing, the board would note that if it had determined it had jurisdiction, the Taxpayer would not have received an abatement because he did

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not meet his burden of showing the Property, as a whole, was disproportionately assessed.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to James E. Donini, Taxpayer; and Chairman, Selectmen of Pittsfield.

Dated: 9/2/93

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Valerie B. Lanigan, Clerk