

Rachel A. Tirrell

v.

Town of Goffstown

Docket No.: 9620-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$80,900 (land \$55,600; buildings \$25,300) on an 18-acre lot with a house (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 granted.

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 assessment was excessive because:

- 1) there is a powerline right-of-way that runs across the Property;
- 2) a brook runs through the Property, resulting in swamp and marsh; and
- 3) the land is steep, ledge, and landlocked -- the only access is through the right-of-way.

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The Town argued the assessment was proper because:

- 1) 16 of the 18 acres is assessed current use;
- 2) the house site was adjusted for topography, wetness and the powerline right-of-way, resulting in a \$70,300 reduced assessment offered, but not acceptable to the Taxpayer; and
- 3) the same methodology was used throughout the Town.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded the proper assessment should be \$70,300 (land \$45,000; buildings \$25,300) as an adjustment recommended by the Town.

Board's Rulings

Based on the evidence, the board finds the correct 1990 assessment to be \$70,300 (land \$45,000, buildings \$25,300). The appellant notes she has lived on the Property for forty-seven years and that she is seventy years of age. The Taxpayer may wish to consider the provisions of RSA 72:38-A, liens for the elderly and disabled. Information and application forms should be available at the Town Hall.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v

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Town of Bedford, 122 N.H. 187, 189-90 (1982). 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.

If the taxes have been paid, the amount paid on the value in excess of \$70,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Rachel A. Tirrell, Taxpayer; and Chairman, Selectmen of Goffstown.

Dated: April 22, 1993

Melanie J. Ekstrom, Deputy Clerk

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