

Guy W. and Susan B. Trammell

v.

Town of Londonderry

Docket No.: 9904-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$149,100 (land, \$18,400; building, \$130,700) on Map 5, Lot 48-9 (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-assessment card incorrectly states the living space in the basement;
- (2) the finished basement was assessed at a higher square foot value than

other properties; and

(3) compared to other larger homes, the assessment was disproportionate.

The Town argued the assessment was proper because:

(1) the square foot values on finished basements vary depending on type of quality and finish;

(2) Taxpayers' basement is a finished living area and has a walkout to the inground pool;

(3) three comparables were assessed at the same grade factor and priced according to amenities; and

(4) a comparable (11 Jefferson Drive) indicates Taxpayers are not being assessed unlike other ranches.

Board Findings

The appeal is denied because:

(1) the Taxpayers did not provide any market data (elaborated on below);

(2) the Taxpayers did not provide their building costs, which is relevant since the home was recently built;

(3) none of the comparisons made by the Taxpayers allow the board to find overassessment because to reach conclusions by comparison the board must be supplied with sufficient data to do so; and

(4) the Taxpayers did not submit a building sketch to show the asserted error in the building size.

Concerning the lack of evidence on market value, the Taxpayers did not present any credible evidence of the Property's fair market value. To carry

this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's

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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.

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

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Guy W. and Susan B. Trammell, Taxpayers; and Chairman, Selectmen of Londonderry.

Dated: April 20, 1993

Melanie J. Ekstrom, Deputy Clerk

Guy W. Trammell and Susan B. Trammel

v.

Town of Londonderry

Docket No. 9904-90

ORDER

The Board of Tax and Land Appeals received an appeal from its decision of April 20, 1993 in the above captioned matter.

The Taxpayers indicated in their appeal that they:

- 1) were "unaware of the materials needed by your board";
- 2) "presented the same evidence we had presented at the town level";
- 3) were "not aware of the kinds of material the Board includes in its deliberations."

More than 90% of the appearances before the Board on tax matters by taxpayers are pro se (without representation).

The Board cannot assume responsibility for informing litigants how to satisfy the burden of proof. Depending on the issues the method of satisfying that burden will vary dramatically from one appeal to another.

The Board therefore denies the motion for rehearing/reconsideration.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Guy W. and Susan Trammell; and the Chairman, Selectmen of Londonderry.

Date:

Valerie B. Lanigan, Clerk

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