

Marjorie Bennett, James R. Harvey, Sheila Neill,
George H., Barbara H. and Beatrice Fitch

v.

Town of Enfield

Docket No.: 9993-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$106,200 (lot 5-c) on a two-thirds interest on a camp with a 28,700 square-foot lot and \$13,700 (lot 26) on 105 feet on Mascoma Lake (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). The Taxpayers failed to carry this burden.

The Taxpayers argued the assessments were excessive because:

1) they were based on one sale and the sales price was inflated;

Marjorie Bennett, James R. Harvey, Sheila Neill,
George H., Barbara H. and Beatrice Fitch v. Enfield
Docket No.: 9993-90
Page 2

- 2) they were arrived at during the high real estate market,
- 3) a brook runs through Lot 26 and Lot 5-c; and
- 4) lot 5-c only has a seasonal dwelling.

The Town argued the assessment was proper because:

- 1) adjustments were made for the brook; and
- 2) it was supported by an assessment comparison analysis.

The Town failed to submit any sales to support the assessment.

Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

The Taxpayers wrongly assumes the Town has the burden. The Taxpayers have the burden here. 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 will then be 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Marjorie Bennett, James R. Harvey, Sheila Neill,
George H., Barbara H. and Beatrice Fitch v. Enfield
Docket No.: 9993-90
Page 3

Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to James R. Harvey, Marjorie Bennett, Taxpayers; and Chairman, Selectmen of Enfield.

Dated: July 27, 1992

Melanie J. Ekstrom, Deputy Clerk