

Heirs of Violet Patten

v.

Town of Enfield

Docket No.: 9995-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$34,200 on 32 +/- acres (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). We find the Taxpayer carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) an October 1990 "appraisal" for an estate estimated a \$16,000 value;
- 2) the fish and game department estimated the value at \$12,000 to \$15,000;

- 3) the Property has ledge and is very steep; and
- 4) if the Property was subdivided it would have to be subdivided into 10-acre lots and a road built.

The Town argued the assessment was proper because it was consistent with other assessment's.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$27,750. This assessment is ordered because given the Property's topography and access, \$750/per-acre value should be used. We reject the Taxpayer's \$8,000 "appraisal" on a one-half interest, finding it to be without any supporting 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).

If the taxes have been paid, the amount paid on the value in excess of \$27,750 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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald D. Patten, heir of Violet Patten, Taxpayer, and Chairman, Selectman of Enfield.

Dated: October 20, 1992

Melanie J. Ekstrom, Deputy Clerk

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