

**George H. and Janet E. Meyers**

**v.**

**Town of Hinsdale**

**Docket No.: 10956-91 PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$141,600 (land \$36,400; building \$105,200) on a 6.33-acre lot with a three-family home (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to prove the Property was disproportionately assessed.

The Taxpayers argued the assessment was excessive because:  
(1) the Property was built in 1825, has been remodeled several times, and is large, but not fancy;

(2) the Property was purchased in 1984 for \$47,900; and

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(3) a 1986 appraisal estimated a \$67,000 value, and a realtor verbally estimated a market value of no more than \$110,000 in February, 1992.

The Town argued the assessment was proper based on the assessment of two comparable properties.

The board's inspector reviewed the assessment-record card and the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the proper assessment should be \$119,500 (land \$36,400; buildings \$83,100). The inspector adjusted the physical and functional depreciation to address the building's age and condition. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property's assessment was disproportional. 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 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. The Taxpayers asked the board to base its decision on a broker's verbal estimate of value and on a 1986

appraisal (not submitted). The board Page 3  
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was not able to rely on this information because no written documentation was supplied to support the value conclusion. Specifically, there was no evidence submitted to indicate what sales were used or what adjustments were made to the sales to arrive at the value conclusion. Without such information, the board and the municipality are unable to review the soundness of the value conclusions. The board could not rely on the Taxpayers' statement of a 1986 appraisal value because: (1) there was no written evidence supplied; (2) the appraisal was for refinancing purposes; and (3) no evidence was provided to show how the market changed from 1986 to the date of assessment, April 1, 1991.

The board did not rely on its inspector's report because the inspector did not do an on-site inspection and is no longer employed by the board, and therefore, could not be questioned as to how he determined that physical and functional depreciation were warranted.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a reconsideration

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motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the reconsideration motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George H. and Janet E. Meyers, Taxpayers; and Chairman, Selectmen of Hinsdale.

Dated: May 20, 1994

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Lynn M. Wheeler, Deputy Clerk

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