

**John and Nancy Caputo**

**v.**

**Town of Orange**

**Docket No.: 10961-91-PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$88,600 (land, \$19,800; building, \$68,800) on 1.67 acres with building (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 carry this burden.

The Taxpayers argued the assessment was excessive because:

- 1) the Property was purchased in August, 1990 for \$89,500;
- 2) the property record card indicated 4 bedrooms, yet two are located in the unfinished basement with no heat;
- 3) it has increased 3.42% since the revaluation;

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- 4) similar properties are assessed lower, some having more land and a better location;
- 5) the road is dirt and in poor condition;
- 6) properties have declined 10 to 20% since August, 1990; and
- 7) a proper assessment would be \$76,075.

The Town argued the assessment was proper because:

- 1) the Taxpayers' sale is the best indicator of market value;
- 2) three sales in the vicinity of the Taxpayers' Property indicates their assessment is proportional;
- 3) the property record card correctly lists the basement as 55% unfinished;
- 4) the Taxpayers' arguments on neighborhood conditions (road, junk cars) were present at the time they purchased the Property;
- 5) the Taxpayers' arguments that real estate has declined 15% since the purchase of their Property doesn't hold true as DRA's ratio study would have reflected that condition; and
- 6) the Taxpayers' assessment is correct and consistent with other properties in Town.

The board's inspector reviewed the assessment-record card, reviewed 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 assessment is proper. 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

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deserves. Thus, the board may accept or reject the inspector's recommendation.

#### Board Findings

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The most important evidence was the Taxpayers' 1990 purchase price.

A sales price is one of the best indicators of a property's value, Appeal of Lake Shore Estates, 130 N.H. 504, 508 (1988), and under RSA 75:1, assessments must be based on market value.

The board finds a greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is

assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the

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Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

The Taxpayer argued the assessment should be reduced because the market for the property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove their property is disproportionately assessed.

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

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George Twigg, III, Chairman

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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 John and Nancy Caputo, Taxpayers; and the Chairman, Selectmen of Orange.

Dated: September 20, 1994

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Melanie J. Ekstrom, Deputy Clerk

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ORDER

This order relates to the "Taxpayers'" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND

LAND APPEALS

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III, Chairman

George Twigg,

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MacLellan, Esq., Member

Ignatius

I certify that copies of the within Order have this date been mailed, postage prepaid, to John & Nancy Caputo, taxpayers; and the Chairman, Selectmen of Orange.

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Lanigan, Clerk

Valerie B.

Date:

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