

**J. Gale and Arthur F. LeClair, Jr.**

**v.**

**Town of Farmington**

**Docket No.: 10965-91PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$71,730 (land \$7,000; current use \$1,530; buildings \$63,200) on a 122-acre lot (121 acres in current use) with a house (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the house lot is 1.1 miles in on a Class VI road fully maintained (all phases of repair and upgrade) by the Taxpayers at a yearly cost of \$2,500-\$3,000;
- (2) the Property is a certified tree farm and is used for environmental education during the summer months; and

(3) based on a nearby comparable property which has been on the market for several years at \$80,000, the fair market value of the subject as of April 1, 1991 was \$100,000.

The Town stated:

- (1) the Taxpayers have 121 acres of land in current use;
  - (2) the Town has abated 1992 and forward and assessed the Property for \$52,050;
- and
- (3) an assessment of \$52,050 is fair and proportionate for 1991.

#### Board's Rulings

Based on the evidence, we find the correct assessment should be \$52,050. This assessment is ordered because the board finds the Town's recommended adjustment of \$52,050 when equalized by the department of revenue administration's equalization ratio of 52% arrives at a value of \$100,100.

If the taxes have been paid, the amount paid on the value in excess of \$52,050 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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

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stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

\_\_\_\_\_  
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 J. Gale and Arthur F. LeClair, Jr., Taxpayers; and Chairman, Selectmen of Farmington.

Dated: March 15, 1995

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Valerie B. Lanigan, Clerk