

**Ernest R. and Celeste I. Menard**

**v.**

**Town of Exeter**

**Docket No.: 11083-91PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$282,500 (land, \$83,500; building, \$199,000) on 2 acres with a 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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) three comparables, similar in quality and neighborhood, indicate the building assessment is disproportionate;
- 2) a March, 1992 appraisal indicated a fair market value of \$224,000; and

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3) the building should be lowered to \$70.00 per square foot or \$150,000, a total assessment of \$233,520.

The Town argued the assessment was proper because:

- 1) the Taxpayers purchased the Property on October 8, 1987, for \$300,000 six months before the 1988 revaluation, at which time an assessment of \$282,500 was placed on the Property;
- 2) the Taxpayers miscalculated the buildings square footage. Using the correct square footage and dividing it into the buildings assessment, the figure (\$70.03) was within the Taxpayers range of square footage comparables;
- 3) when establishing market value, the land and building values should both be recognized and valued as a whole, which the Taxpayers failed to do;
- 4) two of the Taxpayers' comparables are from a P.U.D. subdivision with land values that include 13.84 acres in common, and were not comparable to the Taxpayers' neighborhood;
- 5) Taxpayers' assessment is consistent and standardized when compared to their neighbors and was within an acceptable range to market value for 1988; and
- 6) the Taxpayers failed to show the assessment was over-valued when compared to the standards of value established during the 1988 revaluation.

The board's inspector reviewed the assessment-record card, 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 was 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 deserves. Thus, the board may accept or reject the inspector's recommendation.

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#### Board's Findings

The board finds the 1991 assessment is proper as assessed.

The Taxpayers apparently understated the square footage at 2,143, while the Town and the fee appraiser are in comparative agreement at 2,518 square feet and 2,549 square feet, respectively.

The Taxpayers erred when they compared their property, situated on its own lot with two units in a planned unit development (PUD) subdivision with land values which includes 13.84 acres in common.

Using the correct square footage and dividing it into the building's assessed value, one calculates \$70.03 per-square foot, well within the Taxpayers' comparables' square-footage value range.

The Taxpayers purchased the Property in October of 1987 for \$300,000. Six months later (April, 1988) the Town assessed the Property for \$282,500.

The Taxpayers put their Property on the market in November of 1991, asking \$239,000 and was last reported in 1992 as being raised to a \$259,000 listing.

A fee appraisal submitted by the Taxpayers shows a value conclusion of \$224,000 as of March 23, 1992. To be relevant the appraisal should have been time-adjusted to April 1, 1992, the appealed assessment date. Because the market has been changing so rapidly, the board could not rely upon the

appraisal.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must

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consider a taxpayer's entire estate to determine if an abatement is warranted.

See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the municipality shall make this allocation in accordance with its assessing practices.)

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 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).

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 Ernest R. and Celeste I. Menard, Taxpayers; and the Chairman, Selectmen of Exeter.

Dated:

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Melanie J. Ekstrom, Deputy Clerk

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