

**Pittsfield Bottled Gas Co., Inc.**

**v.**

**Town of Pittsfield**

**Docket No.: 11137-91PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$121,100 (land \$33,300; buildings \$87,800) on a 1 3/4 story home on a 3.010 acre lot (the Property). The Town did not appear but consistent with our Rule, TAX 202.06(h), the Town was not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is denied.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Property was purchased in August 1990 for \$89,900 at a bank foreclosure;
- (2) Capital Appraisal estimated the value as of September 1990 to be \$108,000;

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- (3) McFall Appraisal estimated the value as of August 1990 to be \$103,000; and  
(4) the fair market value as of April 1991 was \$105,000.

Without any notice to the board, the Town failed to appear and did not send in any evidence.

### **Board's Rulings**

Based on the evidence, we find the Taxpayer failed to show over-assessment because the equalized value was \$102,600 (assessment ÷ ratio) and his appraisals were higher than the equalized value. The Taxpayer argued the board should not simply apply the ratio, but absent a showing of another ratio, the board must use the DRA's ratio. See Appeal of the City of Nashua, 138 N.H. 261, 266 (1994). Thus, we must deny the appeal.

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 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

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Ignatius MacLellan, Esq., Member

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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 Raymond C. Cummings, President of Pittsfield Bottled Gas Co., Inc., Taxpayer; and Chairman, Board of Selectmen of Pittsfield.

Dated: July 26, 1995

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Valerie B. Lanigan, Clerk

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