

Neil S., David B. & Frances M. Kirkpatrick

v.

Town of Alton

Docket No.: 11314-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$80,900 (land \$32,900; buildings \$48,000) on a 3.13-acre lot with a one-story camp (the Property). 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 their burden and prove disproportionality.

The Taxpayers requested and were granted leave not to be present at the hearing.

The Taxpayers argued in their written submittals the assessment was excessive because:

(1) a realtor's opinion of value accepted by probate court estimated a 1991 value of \$65,000; and

(2) the age, condition and utility of the Property does not justify the assessment.

The Town argued the assessment was proper because:

- (1) the Property subsequently sold in October, 1993 for \$65,000;
- (2) the current owners indicated an appraisal had been done in 1993, estimating a \$72,000 value; and
- (3) applying the Town's 1991 ratio to the assessment provides an indicated market value within 4% of the Taxpayer's opinion of value.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment. In 1991, the department of revenue administration determined the equalized ratio for the Town to be 120%. In general, this ratio indicates the Town's assessments are approximately 20% above market value. Applying this ratio to the Taxpayers' opinion of value indicates an assessment of \$78,000 ($\$65,000 \times 1.20$) -- less than 4% from the Town's assessment.

Further, the sale of the Property in 1993 for \$65,000 indicates the assessment is proportional to the general level of assessment.

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 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Frances M. Kirkpatrick, representative for the Taxpayers; and Chairman, Board of Selectmen of Alton.

Dated: January 17, 1995

Valerie B. Lanigan, Clerk