

John L. and Barbara G. Pfeiffer

v.

Town of Deerfield

Docket No.: 12134-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$151,650 (land \$61,700; buildings \$89,950) on a 5.3-acre lot with a house (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 submitted voluminous material to the board. The board reviewed all of the material, but will not reiterate all of the arguments and issues presented in the material. The Taxpayers' basic arguments were that the assessment was excessive when compared to the assessments on other properties, comparing both the building and the land assessments, and insufficient depreciation was given to the building given certain defects and functional problems.

The Town argued the assessment was proper because:

- (1) the Property is in a desirable subdivision, which increases its value;
- (2) the land assessment was depreciated for wet areas and runoff; and
- (3) comparable properties in the Town support the Property's assessment.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed. The board notes that the Taxpayers filed a 1990 tax appeal (Docket No. 10729-90) and the board issued a decision on June 21, 1993. The board found the correct assessment as of April 1, 1990 to be \$151,650. The board finds the assessed value as of April 1, 1991, when adjusted to the Department of Revenue Administration's equalization ratio of 121%, suggests a fair market value of \$125,350 as of April 1, 1991 ($\$151,650 \div 1.21$). Therefore, the board finds that the fair market value has been properly adjusted for the difference in time from April 1, 1990 to April 1, 1991.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration motion") of this decision must be filed within twenty (20)

days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration 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 reconsideration motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the reconsideration motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John L. and Barbara G. Pfeiffer, Taxpayers; and Chairman, Selectmen of Deerfield.

Dated: April 12, 1994

Lynn M. Wheeler, Deputy Clerk

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