

**Evelyn Martin**

**v.**

**Town of Groton**

**Docket No.: 12502-91PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$24,800 on a mobile home (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the home is seventeen years old and has certain deficiencies, roof leaks and the porch is unfinished;
  - (2) the home was bought second hand for \$10,000 in 1984 and brought to the site;
- and
- (3) the proper assessment should have been \$8,000.

The Town argued the assessment was proper because:

- (1) the Town had not been revalued since 1983 and thus the assessment increased;
- (2) the assessment was reviewed and additional depreciation was given for the problems raised by the Taxpayer; and
- (3) the assessment was based on the state manual.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$12,900.

This assessment is ordered because:

- (1) we increased the physical depreciation by 5%; and
- (2) we added 50% economic depreciation given the limited rights the Taxpayer owns.

The unique issue here is what real estate rights the Taxpayer holds and thus can be taxed. The Taxpayer only owns the building. She has no rights to occupy the land except as allowed by the landowner. Thus, she has very limited rights, and the assessment, therefore, should have reflected this.

If the taxes have been paid, the amount paid on the value in excess of \$12,900 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992, 1993 and 1994. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Evelyn Martin, Taxpayer; and Chairman, Board of Selectmen of Groton.

Dated: January 27, 1995

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Valerie B. Lanigan, Clerk

0006