

Edward Durand

v.

Town of Groton

Docket No.: 12504-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$21,350 on a lot with a horse barn and a manufactured home owned by another (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 lot is accessed by a dirt right of way;
- (2) the horse barn is in total disrepair;
- (3) it was too high compared to the 1984 purchase price;
- (4) the septic and well are old and inadequate even for the manufactured home; and
- (5) the Property was worth \$12,000 to \$14,000.

Docket No.: 12504-91PT

The Town argued the assessment was proper because:

- (1) adjustments were made to reflect the problems raised by the Taxpayer;
- (2) land values have increased since the Taxpayer bought the lot;
- (3) the septic system adds value to the Property; and
- (4) during the revaluation, one to five acre lots were selling for \$12,000 to \$20,000.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$18,500 (land \$18,000; building \$500). This assessment is ordered because:

- (1) the barn and attached shed have only a nominal value of \$500; and
- (2) the water and septic should be reduced by \$1,000 to \$4,500 given the problems with the well (dries out) and the antiquated septic.

If the taxes have been paid, the amount paid on the value in excess of \$18,500 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

Page 3

Durand v. Town of Groton

Docket No.: 12504-91PT

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

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

Dated: January 27, 1995

Valerie B. Lanigan, Clerk

0006