

Doris M. Coleman

v.

Town of New Hampton

Docket No.: 12558-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$114,900 (land \$90,500; buildings \$24,400) on a cottage on a .24 acre lot (the Property). 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 her burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the assessment increased at an excessive rate from the previous assessment;
- (2) the Town's two comparables are larger and generally superior than the Property;
- (3) the lot tapers in the rear and is quite rocky; and
- (4) the Property had a market value of only \$100,000 in 1991.

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The Town argued the assessment was proper because:

- (1) the Property is located on a point and is nicely situated;
- (2) the triangulation of the lot recognizes the tapering shape of the lot;
- (3) the Berman and Curran sales are not comparable in size and quality to the Taxpayer but were submitted to generally support the assessment methodology; and
- (4) the comparables referenced by the Taxpayer are inferior due to topography problems with the lots.

Board's Rulings

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The Taxpayer argued that her assessment increased at a greater rate than the general increase in assessments due to the revaluation. A greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

The board finds the Town reasonably adjusted for the shape of the lot by its triangulation method and properly considered the topography in its land assessment.

The Taxpayer offered an opinion of market value of \$100,000. However, the Taxpayer did not present any credible evidence of the Property's fair market value.

To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared
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to the Property's assessment and the level of assessments generally in the Town.

See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of

Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

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

George Twigg, III, Chairman

Paul B. Franklin, Member

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Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Doris M. Coleman, Taxpayer; and Chairman, Board of Selectmen of New Hampton.

Dated: July 11, 1995

Valerie B. Lanigan, Clerk

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