

Robert A. Van Schelt

v.

Town of Deerfield

Docket No.: 12579-91PT

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$152,800 (land \$121,300; buildings \$31,500) on a 41,250, square-foot lot with two cottages and a workshop (the Property). The Taxpayer 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 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 this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) the buildings' assessments increased, yet abutting properties had no increase in their building values;

(2) larger lots have lower assessments; and

Page 2

Van Schelt v. Town of Deerfield

Docket No.: 12579-91PT

(3) assessments continue to increase despite the decline in market values.

The Town argued the assessment was proper because:

(1) the Property has two cottages on a lakefront lot; and

(2) the Property's assessment was well within the range of comparable properties' assessments.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed. The board notes that the Taxpayer filed a 1990 tax appeal (Docket No. 10592-90) and the board takes judicial notice of the evidence submitted in that appeal. The board finds the Taxpayer submitted no additional evidence to support the contention that the Property was overassessed.

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

Page 3  
Van Schelt v. Town of Deerfield  
Docket No.: 12579-91PT

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 Robert A. Van Schelt, Taxpayer; and Chairman, Selectmen of Deerfield.

Dated: April 12, 1994

---

Lynn M. Wheeler, Deputy Clerk

0009

I hereby certify a copy of the foregoing decision has been remailed this date, postage prepaid, to Robert A. Van Schelt, Taxpayer; and Chairman, Selectmen of Deerfield.

Dated: May 6, 1994

---

Valerie B. Lanigan, Clerk

0006

Robert A. Van Schelt

v.

Town of Deerfield

Docket No. 12579-91-PT

ORDER

This order relates to the "Taxpayer's" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

---

George Twigg, III, Chairman

---

Michele E. LeBrun, Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Robert A. Van Schelt; and the Chairman, Selectmen of Deerfield.

---

Valerie B. Lanigan, Clerk

Date: June 17, 1994

0003