

Mary and E. Daniel Dodge, Jr.

v.

Town of Landaff

Docket No.: 12661-91PT

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$62,750 (land, \$9,750; building, \$53,000) on 1.9 acres with buildings (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.

The Taxpayers argued the assessment was excessive because:

- 1) taxes are outrageous for the land and house; and
- 2) several photographs submitted indicated the house is still unfinished.

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The Town argued the assessment was proper because:

- 1) after a review, the assessor found there were no math or procedural errors;
- 2) the same manual was used on all properties; and
- 3) the Taxpayers have been assessed the same as all other properties throughout the Town.

Board Findings

The board finds the Taxpayers failed to prove the Property was disproportionally assessed. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared 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.

The board reviewed the assessment-record card to ensure that reasonable and adequate adjustments were made for the unfinished features of the house as the Taxpayers' photographs indicated. The board finds that 25% functional depreciation adequately accounts for the unfinished areas. For example the 5% specifically noted for the unfinished exterior equates to approximately \$7,500 estimate of cost to finish the exterior (replacement cost \$71,000 x .05 = \$3,550 ÷ .47 equalization ratio = \$7,753).

A motion for rehearing, reconsideration or clarification

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(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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Mary and E. Daniel Dodge, Jr., Taxpayers; and Chairman, Selectmen of Landaff.

Dated: April 28, 1994

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Melanie J. Ekstrom, Deputy Clerk