

Russell E. Carter

v.

Town of Sandown

Docket No.: 12749-92PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$94,300 (land \$70,600; buildings \$23,700) on a 6,098, square-foot lot with a cottage (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) a neighboring lot assessed at \$107,600 sold for only \$75,000 in 1992; and
- (2) given the 30% difference between assessed values and sale prices, the

Property's assessment should be \$66,000.

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The Town argued the assessment was proper because:

- (1) the 1992 equalization ratio was 1.32, which supports the 30% difference between assessments and sale prices; and
- (2) differences in water frontage account for the comparable sale's higher assessment.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property's assessment was disproportional. The Taxpayer's primary argument was that the market had dropped approximately 30% since the 1989 reassessment and thus the Taxpayer's assessment should also be reduced 30%.

All assessments must be relative to market value RSA 75:1. In 1989 the Town of Sandown conducted a reassessment and arrived at an estimated market value of \$94,300 for the Taxpayer's Property. Also in 1989, the Department of Revenue Administration (DRA) determined that the general level of assessment was approximately at 97% throughout the Town of Sandown. Most reassessments attempt to arrive close to 100% or full market value. In 1989 the reassessment resulted in properties being slightly (3%) lower than full market value.

The DRA has determined that the equalized ratio for 1992 is 132%. This ratio indicates generally that the level of assessments throughout the Town are 32% above market value. Applying the 132% equalization ratio to the Taxpayer's assessment provides an indicated market value as of April 1, 1992 of \$71,440 ($\$94,300 \div 1.32$). The board finds that the Taxpayer's Property is

assessed proportionally to the general level of assessment within the community in 1992. The Taxpayer's arguments that the market has dropped
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approximately 30% is supported by the DRA's equalization ratio. And thus, the Taxpayer has failed to prove his assessment is disproportionate.

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 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

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Russell E. Carter, Taxpayer; and Chairman, Selectmen of Sandown.

Dated: December 30, 1994

Lynn M. Wheeler, Deputy Clerk

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