

**James and Paulette Leger**

**v.**

**Town of Rindge**

**Docket No.: 12848-92-PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$206,400 (land, \$131,400; building, \$75,000) on .90 acres with a building (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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) it exceeded the general level of assessments of other properties listed in the appraisal;
  - 2) an appraisal dated March 1992 indicated a fair market value of \$170,000;
- and

3) the Property referred to by the Town (Map 19, Lot 8) is not comparable as it is currently for sale for \$275,000 and the price reflects the superior location of its 188 feet of water frontage.

The Town argued the assessment was proper because:

- 1) the Taxpayers' Property has 540 feet of road frontage and was depreciated for undeveloped, size and shape of the lot and for access;
- 2) comparing the Property to the Taxpayers' abutters revealed none have the same or even close to the amount of frontage that the Taxpayers have;
- 3) other properties were reviewed, some having less property, and they had not received excess undeveloped depreciation, which indicated those properties are assessed higher; and
- 4) the assessment was equitable and warrants no change.

#### Board Findings

The board finds the Taxpayers failed to prove the Property was disproportionately assessed. Neither party challenged the Department of Revenue Administration's equalization ratio of 121% for the 1992 tax year for the Town of Rindge. The Property's equalized value is \$170,600. The Taxpayers appraiser determined a fair market value as of March 1992 to be \$170,000. The board finds the Taxpayers appraisal supports the assessment.

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

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to James and Paulette Leger, Taxpayers; and the Chairman, Selectmen of Rindge.

Dated: December 23, 1994

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Melanie J. Ekstrom, Deputy Clerk