

**Christopher and Mary Cameron**

**v.**

**Town of Derry**

**Docket No.: 12999-92PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$145,000 (land \$62,700; buildings \$82,300) on a 1.45-acre lot with a house (the Property). 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 their burden.

The Taxpayers requested leave not to attend the hearing but initially neglected to copy the Town of their request. However the Taxpayers did subsequently copy the Town with their request on August 18, 1995. The Taxpayers are granted leave and the board has reviewed their arguments submitted with their appeal.

The Taxpayers argued the assessment was excessive because:

- (1) the 146% equalization ratio for the Town is high compared to surrounding towns;
- (2) the Property was purchased in October 1991 for \$113,000 and an appraisal of the Property in October 1992 estimated the value at \$106,000, and
- (3) the discrepancy between the assessed value and the appraised value is too great.

The Town argued the assessment was proper because:

- (1) the general level of assessment in 1992 was 146% based on the department of revenue administration's equalization; and
- (2) the purchase of the Property in 1991 by the Taxpayers for \$113,000, the appraisal in 1992 for \$106,000 and the Property's sale in 1994 for \$106,000 supports the assessment when equalized by the 146% ratio.

### **Board's Rulings**

The board finds the assessment is supported by the equalized indications of market value. Both the purchase of the Property in late 1991 and the appraisal in 1992 indicate assessment range higher than the actual assessment ( $\$113,000 \times 1.46 = \$164,980$ ;  $\$106,000 \times 1.46 = \$154,760$ ).

Towns are required to assess all property at the same general level of assessment. In 1992 that level in Derry was approximately 46% above market value. To assess the Property at some lower level would cause the Taxpayers' share of the tax burden to be disproportionately low.

Subsequent to the hearing the Town filed a request for costs in the amount of \$147.16. In accordance with Tax 201.39, the board grants the Town costs in the

amount of \$73.58 because the evidence before the board clearly Page 3  
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indicated the Property was not overassessed and the appeal was without any basis. The board has reduced the Town's request by half because the Town was present for another appeal (Reardon v. Derry, Docket No.: 12950-92PT) at the same time.

Therefore, pursuant to RSA 71-B:9, the Taxpayers are ordered to pay the Town \$73.58 for costs incurred in prosecuting this frivolously maintained appeal. The Taxpayers shall pay the Town this \$73.58 within ten days of the clerk's date below, sending a copy of the payment letter to the board. If the Taxpayers fail to so comply, the Town may file an enforcement motion with the board, and then the board may file enforcement action in the Merrimack County Superior Court.

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Christopher J. and Mary Cameron, Taxpayers; and Chairman, Board of Assessors, Town of Derry.

Dated: September 25, 1995

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Valerie B. Lanigan, Clerk

0006

Christopher J. and Mary Cameron  
Docket No.: 12999-92PT

and

Cheryl A. Reardon  
Docket No.: 12950-92PT

v.

Town of Derry

**ORDER**

This order responds to the "Town's" October 31, 1995 letter that informed the board that the "Taxpayers" had not complied with the board's September 25, 1995 decision. The board ordered each of the Taxpayers to pay the Town \$73.58 in costs. The 30-day deadline for the Taxpayers to file a rehearing motion has passed; the board's decision is now final and nonappealable. The Taxpayers shall pay the Town the ordered costs, within 10 days of the clerk's date below, or the board will subpoena the Taxpayers to appear to show cause why the board should not ask the superior court: 1) to find the Taxpayers in contempt; and 2) to enforce the board's order. If the board is required to take additional steps, any board costs and the Town's costs will be added to the amount owed by the Taxpayers.

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Reardon v. Town of Derry  
Docket No.: 12950-92PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that copies of the foregoing order have this date been mailed, postage prepaid, to Christopher J. and Mary Cameron; Cheryl A. Reardon; and David N. Gomez, Assessor for the Town of Derry.

Dated: November 13, 1995

Valerie B. Lanigan, Clerk

0005

CERTIFICATION

I hereby certify that copies of the foregoing order have this date been mailed, postage prepaid, to Christopher J. and Mary Cameron; Cheryl A. Reardon; and David N. Gomez, Assessor for the Town of Derry.

Date: November 27, 1995

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Valerie B. Lanigan, Clerk

0006

Christopher J. and Mary Cameron

v.

Town of Derry

Docket No.: 12999-92PT

**ORDER**

This order relates to the "Taxpayers" December 2, 1995 letter, which was responding to the board's November 13, 1995 order. The awarding of costs is within the board's sound discretion. Based on the information in the Taxpayers' letter, the board agrees the Taxpayers should not be required to pay costs. Therefore, the board's September 25, 1995 decision is revised removing the requirement of the Taxpayers paying costs.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify that a copy of the foregoing order has been mailed this date,

postage prepaid, to Christopher J. and Mary Cameron, Taxpayers; and Town of Derry,  
Chairman, Board of Assessors.

Dated: December 19, 1995

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Melanie J. Ekstrom, Deputy Clerk

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