

**Andrew and Patricia Norton**

**v.**

**Town of Peterborough**

**Docket No.: 13046-92PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$105,300 (land, \$45,300; building, \$60,000) on .07 acres with building attached to buildings on map 17, lots 168, 169, and 170 (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) of the value placed on the land compared to the adjacent larger lots;
- 2) errors on the assessment record card, i.e., not a full basement or full brick exterior walls; and

3) of the value placed on the garage compared to lot 166.

The Town argued the assessment was proper because:

- 1) the only basement listed is under 480 square feet and only a 480 square foot section of the house is priced as brick;
- 2) the land value had been assessed according to the small acreage adjustment chart and the price and depreciation is correct for the garage; and
- 3) the Property's assessment was arrived at using the same methodology used in assessing other properties throughout the Town.

#### Board Findings

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately 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 Taxpayers argued that their lot was smaller yet was assessed at a higher unit value than larger lots. Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for

assessments on a per-square-foot basis to differ to reflect this market phenomenon.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982). Further, the Town appropriately addressed the issues raised by the Taxpayers as to how the Town assessed the basement, house siding and the garage.

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.

Page 4  
Norton v. Town of Peterborough  
Docket No.: 13046-92PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

\_\_\_\_\_  
Ignatius MacLellan, Esq., Member

\_\_\_\_\_  
Michele E. LeBrun, Member

**Certification**

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Andrew and Patricia Norton, Taxpayers; and Chairman, Board of Selectmen.

Dated: December 16, 1994

\_\_\_\_\_  
Melanie J. Ekstrom, Deputy Clerk

0006