

**Anthony and Barbara Kulpa**

**v.**

**City of Laconia**

**Docket No.: 13103-92PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1992 assessment of \$116,300 (land \$35,200; buildings \$81,100) on a 5,889 square-foot lot with a cottage (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 did not appear but were granted leave consistent with our rule TAX 202.06. This decision is based on the evidence presented to the board and in the file.

The Taxpayers argued the assessment was excessive because:  
(1) the \$20,000 boat slip assessment was excessive because the slip cannot be separately sold; and

(2) based on two recent sales in the area (Anderson and Ford), the assessment was excessive.

The City argued the assessment was proper because:

- (1) the Property has the right to use a community beach and docking system, which rights are transferable with the Property or to another owner in the campground;
- (2) the Anderson lot, a Taxpayers' comparable, was on the water but the waterfront was encumbered by the rights held by other to park and to access the beach and docks (The Anderson house also is the converted chapel and thus lacks good layout and interior improvements, e.g., the interior lacks full walls.);
- (3) the Ford property, a Taxpayers' comparable, is not in the Methodist campground and does not have beach and dock access; and
- (4) sales of boatslips supported the boatslip assessment.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayers did not show over assessment for the following reasons.

Assessments must be based on market value. See RSA 75:1. Due to market fluctuations, assessments may not always be at market value. A property's assessment, therefore, is not unfair simply because it exceeds the property's market value. The assessment on a specific property, however, must be proportional to the general level of assessment in the municipality. In this municipality, the 1992 level of assessment was 1.29% as determined by the revenue department's equalization ratio. This means assessments generally were higher than market value. The

\$90,155 (\$116,300 assessment ÷ 1.29) equalization ratio). This equalized assessment should provide an approximation of market value. To prove overassessment, the Taxpayers would have to show the Property was worth less than the \$90,155 equalized value. Such a showing would indicate the Property was assessed higher than the general level of assessment.

The Taxpayers did not, however, present evidence of the Property's fair market value. They submitted two sales, but they did not indicate what adjustments would be needed to adjust the sales to allow a comparison of the sales' prices to the Property's value. For example, the Town stated the Anderson property lacked interior walls (also see the assessment printout provided by the Taxpayers), and the Anderson property, while on the water, was burdened by the access rights held by others. To use the Anderson sale would require adjusting the sale for these, and other, factors. The Taxpayers did not do this.

The Taxpayers' arguments about the dock assessment also fail. The assessment process isolates various factors such as lot size and dock rights. But the board is ultimately concerned about whether the assessment, as a whole, was excessive. The Taxpayers did not show the value, as a whole, was excessive. Also, the board's prior decision (Docket No.: 4742-88PT) adjusted the dock assessment for the very reasons now argued. Finally, while the dock cannot be separately sold to someone outside the campground, the dock can be sold with the Property or to another lot owner in the campground. Thus, the dock has value to the Property.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of Page 4  
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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.

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 a copy of the foregoing decision has been mailed this date, postage prepaid, to Anthony and Barbara Kulpa, Taxpayers; and Chairman, Board of Assessors, City of Laconia.

Dated: January 24, 1996

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Valerie B. Lanigan, Clerk

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