

George and Sandra Vanderheiden

v.

Town of Wolfboro

Docket No.: 13368-92 PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" assessment of \$893,300 on a house with a 3.8-acre lot (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 it was not consistent with the board's 1990 decision.

The Town argued the assessment was proper because:

1) the Property was still under construction on April 1990 and additional work had been done between 1990 and 1992, justifying the adjustment;

- 2) it was consistent with assessments on similar properties; and
- 3) the assessment was based on the sales analysis done during the 1990 revaluation.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to show overassessment.

The Taxpayers relied upon the board's 1990 decision, asserting the 1992 assessment was not consistent with the board's 1990 decision. However, the Town stated the 1992 assessment was revised from the board's 1990 ordered assessment because the Taxpayers had done additional site work and other improvements on the Property. The board reviewed the photograph in the 1990 file, and that photograph showed the site work and landscaping had not been completed in May 1990. Thus, the Town was correct in reviewing and then adjusting the assessment. Therefore, absent other evidence, we find the Taxpayers have not carried their burden.

Additionally, The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their 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.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration 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 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

Chairman

George Twigg, III,

MacLellan, Esq., Member

Ignatius

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George & Sandra Vanderheiden, Taxpayers; and, Chairman, Selectmen of Wolfeboro.

Dated: February 22, 1995

Lanigan, Clerk

Valerie B.