

**Gregory G. Grant**

**v.**

**Town of Hopkinton**

**Docket No.: 14191-93PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$212,050 (land \$119,350; buildings \$92,700) on a 7.45-acre lot with a single-family house (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry his burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Town made a topography adjustment from .50 to .80 in 1993 without any corresponding change in the topography;
- (2) the neighboring properties used by the Town are higher, larger and/or in current use;
- (3) the land was purchased in May 1992 for \$96,000 and the total cost for construction of the home was \$124,000;

- (4) the rear 1/3 of the land is unbuildable/unusable; and
- (5) the topography adjustment should be .50.

The Town argued the assessment was proper because:

- (1) there was an error on the assessment-record card; the topographic adjustment should have been .80;
- (2) four neighboring comparable properties have the same topographic adjustment with the exception of Dalldorf which has an adjustment of .65 because of wetlands and a long driveway to the house; and
- (3) the old topographic map indicates the land to the rear was once an orchard.

### **Board's Rulings**

Based on the evidence, we find the Taxpayer failed to prove the Property was disproportionately assessed. The board finds the Taxpayer did not present adequate information concerning either an error in the assessment or an error in the Property's resulting equalized value of \$187,650 ( $\$212,050 \div 1.13$ ). The topography issue raised by the Taxpayer did not show overassessment. The Taxpayer based his argument on the fact that the basic site value should continue to receive a .50 topography adjustment as originally set by the Town. The board concludes that the Town was correct in its statement that the .50 adjustment was an error. A topography adjustment of .50 might be appropriate if the Property had severe wetlands or severe slopes and there was a question as to whether or not the lot was buildable. This is not the case for the subject Property. The Taxpayer's aerial photographs and the testimony do not support a .50 topography adjustment.

The Taxpayer stated he purchased the land in 1992 for \$96,000 and the cost to build the home was \$124,000 for a total of \$220,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). The Taxpayer further argued that he had paid too much for the land. If this is the case, the Town's equalized assessment of \$187,650 is still \$32,350 less than the Taxpayer's total costs. The Town submitted evidence of assessments of neighboring properties which indicated consistent methodology in the assessment of the site values. The board finds no evidence was presented to support any adjustment to the assessment.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Gregory G. Grant, Taxpayer; and Chairman, Selectmen of Hopkinton.

Dated: April 23, 1996

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Valerie B. Lanigan, Clerk

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