

**Martin Levin**

**v.**

**Town of Deerfield**

**Docket No.: 14603-93PT**

**DECISION**

The "Taxpayer appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$147,800 (land \$43,900; buildings \$103,900) on real estate consisting of a dwelling on a 3.35 acre lot. The Taxpayer 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 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 this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) the Property was purchased in June 1993 from Federal Home Loan Mortgage Corp. (FHLMC) for \$81,500;

- (2) the Property had been appraised for FHLMC in 1992 at a value of \$103,000;  
and  
(3) based on the Town's 1993 equalization ratio of 1.36, the Property should  
be assessed at \$140,080 ( $\$103,000 \times 1.36$ ).

The Town argued the assessment was proper because:

- (1) the appraisal was done to allow FHLMC to determine a market price; and  
(2) equalizing the Town's assessment of \$147,800 provides an indicated market  
value of \$108,700 close to the Taxpayer's appraised value of \$103,000.

#### **Board's Rulings**

Based on the evidence, the board finds the Taxpayer failed to prove the  
assessment was disproportionate.

Neither party challenged the Department of Revenue Administration's  
equalization ratio of 1.36 for the 1993 tax year for the Town of Deerfield.  
The Property's equalized value is \$108,700. For the Taxpayer to meet his  
burden, he needed to make a showing of market value of less than \$108,700.

The board finds the sale for \$81,500 is not representative of market  
value. The Property was foreclosed upon by the FHLMC and then resold to the  
Taxpayer. Such sales are not usually at market value as lending institutions  
are generally more motivated to liquidate their foreclosure portfolio than to  
hold and manage property for its maximum return. Further banks generally  
transfer property with a quitclaim deed as was the case here. The rights  
transferred and the security of the title are less with a quitclaim deed (RSA  
477:28) than with a warranty deed (RSA 477:27).

The Taxpayer's appraisal is based on three sales, two of which were bank  
sales and, for the reasons stated above, are not market value. This

conclusion is further supported by the appraiser's cost approach (\$131,900) being higher than that indicated by the market approach with bank sales. Even if, for argument purposes, it is assumed the third sale (nonbank sale) supports a market value finding of \$103,000, the equalized market value of \$108,700 is only 5.5% different and within a reasonable appraisal range. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

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

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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 Martin Levin, Taxpayer; and Chairman, Selectmen of Deerfield.

Date: September 25, 1995

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Lynn M. Wheeler, Deputy Clerk

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