

Richard V. Muehlke

v.

Town of Gilford

Docket No.: 14638-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of a single-family home, outbuildings and approximately 160 acres.

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 his burden and prove disproportionality.

Board's Rulings

The Taxpayer filed and argued this appeal based on the \$311,700 ad valorem assessment. However, all of the land except a 2-acre homesite is in current use, and the Taxpayer was actually assessed \$95,750. While the

Taxpayer may disagree with the Town's ad valorem assessment, the Taxpayer is

Page 2

Muehlke v. Town of Gilford

Docket No.: 14638-93PT

not entitled to appeal the ad valorem assessment on the entire Property because the Taxpayer was not taxed based on the ad valorem assessment. The Taxpayer is only a "person aggrieved" (See RSA 76:16) to the extent of the actual tax, which in this case includes only 2 acres and buildings assessed ad valorem with the balance of the acreage in current use. The Taxpayer did not submit anything that demonstrated the ad valorem assessment on the 2 acres and the buildings was excessive. Specifically, the Taxpayer's appraisal valued the entire Property at market value, and the appraisal made no breakdown between land and buildings. Thus, the appeal must be denied because the Taxpayer did not show that he was disproportionately taxed.

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. 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.

Page 3
Muehlke v. Town of Gilford
Docket No.: 14638-93PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Marjorie S. Muehlke, Agent for Richard V. Muehlke, Taxpayer; and Chairman, Selectmen of Gilford.

Date: October 11, 1995

Valerie B. Lanigan, Clerk

0005