

John H. and Joni P. Vetne

v.

Town of Peterborough

Docket No.: 15474-94PT

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1995 assessment of \$150,300 (land \$47,500; buildings \$102,800) on a .50-acre lot with a dwelling and a studio apartment (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 a disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show that the Property's assessment was higher than the general level of assessment in the municipality. Id. The Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) the Town Report indicated that the equalization ratio for 1994 was 117%;
- (2) a January 1995 appraisal estimated the market value to be \$102,000; and

(3) a February 1995 appraisal estimated the market value to be \$114,000.

The Town argued the assessment was proper because:

(1) applying the 1994 equalization ratio of 1.29 to the assessment provides an indicated market value of \$116,500; and

(2) the Taxpayers and Peterborough Savings Bank worked out a negotiated sales price of \$114,000, and the Property was deeded to the bank for that amount.

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### **Board's Rulings**

Based on the evidence, the board finds the Taxpayers failed to show their assessment was disproportionate.

While the Taxpayers' reliance upon the Town's incorrect information that the 1994 equalization ratio was 117% is unfortunate, the Taxpayers failed to present any statistical evidence to refute the department of revenue administration's (DRA) calculation of the 1994 ratio at 129%. The assessment if equalized by the DRA's ratio indicates a market value of \$116,500. This estimate of market value is supported by the Taxpayers' appraisal of \$114,000, the Taxpayers' and the bank's negotiated price of \$114,000 and the Town's 1995 assessed value of \$120,900 following a reassessment (indicated market value of \$117,400 when equalized by the 1995 equalization ratio of 103%).

The Taxpayers argued the board should now give some weight to the bank's January 1995 appraisal of \$102,000 for determining the proper 1994 assessment.

The board does not because clearly it was a lower value arrived at by the bank and not accepted by the Taxpayers in their negotiations with the bank to deed the Property back to the bank.

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

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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, 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 John H. and Joni P. Vetne, Taxpayers; and Chairman, Selectmen of Peterborough.

Date: April 3, 1997

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Valerie B. Lanigan, Clerk