

**John W. Priesing**

**v.**

**Town of Deering**

**Docket No.: 15777-94PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$130,100 (land, \$91,500; building, \$38,600) on a 7.5-acre lot with building (the Property). 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.

The Taxpayer argued the assessment was excessive because:

- 1) the Property is for seasonal use only, i.e., no heat, road not passable in winter and the Taxpayer receives few services;
- 2) Deering Lake properties were assessed disproportionately higher than other properties throughout the Town; and

3) an April 1, 1994 fair market value would have been \$110,000 based on lake sales.

The Town argued the assessment was proper because:

- 1) sales from the 1994 revaluation were used to set the assessment;
- 2) the Property was assessed consistently with other properties;
- 3) the Taxpayer compared his Property to dissimilar properties;
- 4) the Taxpayer's argument about seasonal use was addressed, because the assessment-record card included a -20% adjustment for access; and
- 5) the Taxpayer has failed to prove any disproportionality.

**BOARD FINDINGS**

Based on the evidence, the board finds the Taxpayer did not prove the Property was overassessed.

The Taxpayer submitted a sheet of paper that compared the assessment-to-sale of one lakefront property (+37.6%) with the assessments-to-sales ratios (-13.6% to +6.9%) of several nonwaterfront properties. The Taxpayer then argued this proved the lake properties were overassessed. The board concludes this does not show the Property was overassessed for two reasons. First, to show the lake properties generally were overassessed compared to the Town generally, the proper analysis would require more than just one lake sale. Additionally, the Town submitted the Deering Lake sales that were used for the revaluation, and these sales seem to support the Town's methodology. Second, all property appeals must deal with the equalized value of the specific property. In this case, the Taxpayer did not present any credible evidence of the Property's fair market value. To carry his burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have

been  
Page 3  
Priesing v. Town of Deering  
Docket No.: 15777-94PT

compared to the Property's assessment and the level of assessment 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. The Taxpayer failed to do this, and the appeal must, therefore, be denied.

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. This, 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Douglas S. Ricard, Member

Page 4  
Priesing v. Town of Deering  
Docket No.: 15777-94PT

**Certification**

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John W. Priesing, Taxpayer; and Chairman, Board of Selectmen.

Date: November 4, 1996

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Valerie B. Lanigan, Clerk

0006