

**James Kazolias**

**v.**

**Town of Ossipee**

**Docket No.: 15842-94PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$25,600 (land \$10,800; buildings \$14,800) on a 1.65-acre lot with a manufactured home (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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the assessment on the land and on the manufactured housing was excessive compared to other assessments in Town;
- (2) either the other properties were underassessed or the Property was overassessed; and
- (3) the subdivision in which the Property is located does not get the same police protection as other parts of the Town.

The Town argued the assessment was proper because:

- (1) the Property was assessed in the same manner as other manufactured homes in Town;
- (2) four sales of similar manufactured housing supported the assessment; and
- (3) during the abatement process, the Town reviewed the Property two times, reviewed the assessments of similar properties and determined the assessment was proper.

**Board's Rulings**

Based on the evidence, the board finds the Taxpayer did not show overassessment.

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 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.

Additionally, the Town's sales supported the reasonableness of the assessment. The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The bottom line is that the Taxpayer had several complaints about the Town and its handling of assessments, but he never showed that the \$25,600 value on the Property was excessive. Without such evidence, especially when the Town has shown reasonable and consistent assessment methodologies supported by sales, the board cannot grant an abatement.

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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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 James Kazolias, Taxpayer; and Chairman, Selectmen of Ossipee.

Date: September 16, 1996

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Valerie B. Lanigan, Clerk

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