

Bill and Donna Williams, Docket No. 16949-96PT  
Robert and Mavis Vigorito, Docket No. 17308-96PT  
Eleanor Finlayson, Docket No. 17309-96PT  
William and Donna Grimes et al, Docket No. 17316-96PT

v.

Town of Hillsboro

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1996 assessment on the following "Properties."

Taxpayer	Lot No.	Total Assessment	Description
Williams	38	\$66,300	a .30-acre lot with a camp with beach rights
Vigorito	35	\$62,100	a .40-acre lot with a camp with beach rights
Finlayson	39	\$59,200	a .40-acre lot with a camp with beach rights
Grimes/Merritt	34	\$61,900	a .30-acre lot with a camp with beach rights

These appeals were consolidated for hearing. For the reasons stated below, the appeals for abatement are denied.

The Taxpayers have the burden of showing the assessments were 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 Properties' assessments were higher than the general level of assessment in the municipality. Id. The Taxpayers failed to carry this burden.

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The Taxpayers argued the assessments were excessive because:

- (1) the amount of taxes paid has risen dramatically since the town-wide, 1996 revaluation;
- (2) the purchase prices for the properties included many personal items as the cottages were frequently sold furnished or with other accessories such as a boat or lawn mower;
- (3) they are not provided with any town services such as water, sewer or the use of the public school system; and
- (4) the method of valuing the shared beach lot is inconsistent with previous assessing practices in the town.

The Town argued the assessments were proper because:

- (1) all aspects of the Properties were considered during the revaluation including the value of the shared beach lot which is inherent in each of the site values for those improved properties that have water access;
- (2) the equalized assessed values are below the purchase prices; and
- (3) all of the assessments are equitable.

**Board's Rulings**

Based on the evidence, the board finds the Taxpayers failed to prove the Properties were disproportionately assessed.

Assessments must be based on market value. See RSA 75:1. The Taxpayers did not present any credible evidence of the Properties' market values. To carry their burden, the Taxpayers should have made a showing each Property's market value. This value would then have been compared to each 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. 214, 217-18 (1985). Due to market fluctuations, assessments may not always be at market value. A property's assessment, therefore, is not unfair simply because it exceeds the property's market value. The assessment on a specific property, however, must be proportional to the general level of

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assessment in the municipality. In this municipality, the 1996 level of assessment was 102% as determined by the revenue department's equalization ratio. This means assessments generally were slightly higher than market value. To prove overassessment, the Taxpayers would have to show that each Property was worth less than its equalized assessed value. Such a showing would indicate that each Property was assessed higher than the general level of assessment. The board reviewed the assessment-record cards for each Property individually. The Williams', Finlayson's and Grimes' Properties were purchased within four years of the 1996 town-wide revaluation. Each of these Properties' purchase price was more than 10% above their equalized assessments. Mr. Grimes was the only Taxpayer to estimate the market value of his Property. Mr. Grimes opined that the market value of his Property was \$60,000 on April 1, 1996. The 1996 equalized assessment for the Grimes'

Property was \$60,690 ( $\$61,900 \div 1.02$ ). This opinion supports the equalized value. The Taxpayers raised the concern that the method of valuing the commonly owned beach lot, lot 42, was different in this revaluation than in previous assessment practices in the Town. The Town's representative addressed this issue and stated that the beach value is captured and inherent in the site value for each of the properties that have beach access rights. The Town explained the difference between water front lots, water access lots and lots with no water accessibility. Although not all revaluations are done using the exact same methodology, the process used and explained by the department of revenue administration for the Town of Hillsboro's revaluation is not unique to this municipality and the explanations provided indicate that all properties within the Town were revalued using a consistent methodology. In this situation, the Town valued what a willing buyer would be purchasing, the land, buildings and beach rights.

The Taxpayers testified that many of the purchase prices of their Properties included personal property and the tax stamps recorded at the registry of deeds did not reflect the value of the personal property.

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However, the Taxpayers did not provide the board with any evidence indicating the value of the personal property in any of the individual cases.

The Taxpayers complained about the high amount of taxes they must pay. The amount of property taxes paid by the Taxpayers was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See generally International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor, i.e., the board decides if the Property was overassessed, resulting in

the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See The Bretton Woods Company v. Carroll, 84 N.H. 428, 430-31 (1930) (abatement may be granted for disproportionality but not for issues relating to town expenditures); see also Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985). A greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement because unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

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

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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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Bill and Donna Williams, Taxpayers; Robert and Mavis Vigorito, Taxpayers; Eleanor Finlayson, Taxpayer; William and Donna Grimes and David and Corrine Merritt, Taxpayers; David C. Wiley of the Department of Revenue Administration, Agent for the Town of Hillsboro; and Chairman, Selectmen of Hillsboro.

Date: January 8, 1999

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Valerie B. Lanigan, Clerk

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Bill and Donna Williams v. Town of Hillsboro  
Docket No.: 16949-96PT

Robert and Mavis Vigorito v. Town of Hillsboro  
Docket No.: 17308-96PT

Eleanor Finlayson v. Town of Hillsboro  
Docket No.: 17309-96PT

Frederick R. and Cornelia Leavitt v. Town of Hillsboro  
Docket No.: 17315-96PT

William and Donna Grimes, et al v. Town of Hillsboro  
Docket No.: 17316-96PT

ORDER

This order responds to the Town's November 6, 1998 Motion to Consolidate the above-captioned appeals for hearing. This Motion is granted. The Town will make one presentation concerning the five cases, then each Taxpayer will be able to present their own separate case. The Board, after deliberation, will issue a separate decision for each of the above-captioned cases.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Valerie B. Lanigan, Clerk

Date: November 30, 1998

CERTIFICATION

I hereby certify that the within Order has this date been mailed, postage prepaid to Bill and Donna Williams, Robert and Mavis Vigorito, Eleanor Finlayson, Frederick R. and Cornelia Leavitt, William and Donna Grimes, and David and Corinne Merrit, Taxpayers; David C. Wiley of the Department of Revenue Administration, Representative for the Town of Hillsboro; and Chairman, Board of Selectmen of Hillsboro.

Date: November 30, 1998

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Valerie B. Lanigan, Clerk