

**Stanley W. and Susan W. Jackson**

**v.**

**Town of Hebron**

**Docket No.: 18279-99PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1999 assessment of \$835,000 (land \$520,000; buildings \$315,000) on a 12.6-acre lot with a single-family home (the "Property"). The Taxpayers also own, but did not appeal, two land-only lots with a total assessment of \$50,000; neither party questioned the validity of these assessments. For the reasons stated below, the appeal for abatement on the Property is denied.

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying a disproportionate share of taxes. See RSA 76:16-a; TAX 201.27(f); TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show the Property's assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayers failed to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) an October 15, 1999 appraisal of the Property estimated its market value to be \$680,000;
- (2) the “average” assessment-to-sales ratio for four similar waterfront properties is .675; multiplying this ratio by the \$680,000 appraised market value of the Property yields a more accurate assessment of \$459,000; and
- (3) although the Town will be completely revalued for the 2002 tax year, the current equalization ratio is inaccurate due to data deficiencies and should not be relied upon.

The Town argued the assessment was proper because:

- (1) the Town’s 1999 equalization ratio is 1.24 and the Property’s equalized value of \$673,400 ( $\$835,000 \div 1.24$ ) is lower than the Property’s appraised market value, an indication the Property is not overassessed; and
- (2) the Town has applied a consistent methodology when assessing all waterfront properties and the 2002 revaluation will correct any inequities.

### **Board's Rulings**

Based on the evidence, the board finds the Taxpayers did not prove the Property was disproportionately assessed.

The Taxpayers argued the Property was disproportionately assessed based on an October 15, 1999 appraisal and a computation based on the assessment-to-sales ratios for four waterfront properties that sold in 1999. The Taxpayers asserted the Property should be assessed at their “average” level of assessment (i.e., the midpoint of .675), rather than at the level of assessment for the Town as a whole (1.24).

This highly selective approach, however, is contrary to settled law. In Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985), the supreme court noted the burden falls on the taxpayer

to prove disproportionality by “establish[ing] that his property is assessed at a higher percentage of fair market value than the percentage at which property is generally assessed in the town.” (Citations omitted) While this “burden . . . can be difficult to carry,” the inquiry must focus on the general, or overall, level of assessment in the municipality, not the levels in particular property “categories.” Id. at 218-19. See also Appeal of Andrews, 136 N.H.61, 64-65 (1992) (“When asked to consider taxpayer disproportionality, we have consistently held . . . all taxpayers must be assessed at the same ratio. [Citations omitted] . . . [T]he median . . . is representative of the general level of assessment.”); and Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982) (test of disproportionality relates to general level of assessment, not simply “similarly used property”). The Taxpayer’s reliance on a computation based on the sales of four waterfront properties, however comparable they may allegedly be, is therefore misplaced.

In addition, the board notes the four waterfront sales actually used by the Taxpayer showed more divergence than consistency in their computed assessment to sales ratios, ranging from .56 to .79; the difference between the lowest and the highest of these ratios is more than 40%. Using the midpoint of the range of these four sales (.675), rather than the median equalization ratio for the Town as a whole, is therefore questionable at best, and is clearly insufficient to show the Property is disproportionately assessed when compared to the general level of assessment.

The Town testified at the hearing that the \$680,000 appraised value provided by the Taxpayers, when multiplied by the 1.24 equalization ratio determined by the department of revenue administration, yields an indicated assessment of \$843,200. This figure exceeds the current assessed value and is an indication the Property is not overassessed.

In a separate action, the board has ordered the Town to complete a revaluation for tax year 2002. See Board of Tax and Land Appeals v. Town of Hebron, Docket No.: 18124-00RA. The Taxpayers also argued that if their assessment was not changed prior to the completion of the 2002 revaluation, significant assessment inequities would be carried forward in the Town's records due to inaccurate data. While this statement may have some general validity, it does not apply to the Property under appeal. One reason the board found it necessary to order a revaluation in the Town is the lack of accurate data on the Town's assessment-record cards. However, in this appeal, the Taxpayers provided no evidence that the Town's data on the Property is incorrect.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Concurred; unavailable for signature  
Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

**CERTIFICATION**

I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to: Stanley W. and Susan W. Jackson, Taxpayers; and Chairman, Board of Selectmen of Hebron.

Date: August 14, 2001

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Lisa M. Moquin, Clerk