

Board of Taxation
No. 6945

IVAN ROBERTS V. TOWN OF HAMPTON

June 30, 1975



R. Laurence Cullen, by brief and orally, for the plaintiff.

Warren B. Rudman, attorney general, and *Charles G. Cleaveland*, assistant attorney general (*Mr. Cleaveland* orally), for the State.

PER CURIAM. The question to be decided in this case is whether the State board of taxation has jurisdiction to hear an appeal from the assessment of sewer rents by the town of Hampton, New Hampshire. RSA 76:16-a I (Supp. 1973) (Abatement of Taxes by Board of Taxation); see RSA 252:6 (Contracts; Sewerage or Waste Treatment Facilities), :10 (Supp. 1973) (Sewer Rentals).

Plaintiff resides on Exeter Road in the town of Hampton in the vicinity of the Hampton-Exeter town line. In 1968 the residents of Hampton who lived near the town line petitioned the town requesting a sewer line to be extended to their homes. The town passed an article appropriating \$18,000 for installation of the requested sewer line. Later investigation by the Hampton selectmen disclosed that the cost of extending existing Hampton sewer lines would be prohibitive with the result that the selectmen made an agreement with the town of Exeter whereby Exeter would furnish the needed sewer line. RSA 252:6.

By a letter dated August 21, 1971, the Hampton town manager advised the residents in the area of the town line who were benefited by the new sewer line from Exeter that "[t]he annual charge made by the Town of Exeter to the Town of Hampton for sewer services, according to the agreement, must ultimately be the responsibility of the users." See RSA 252:10 (Supp. 1973). On July 18, 1973, plaintiff's request that the Hampton tax assessors abate the sewer rent was denied due to the lack of authority to do so on the part of

the assessors. See RSA 252:14 (Abatement of Assessments), :15 (Petition to Court). Plaintiff appealed to this court from the decision of the State board of taxation dated April 29, 1974, dismissing the abatement request for want of jurisdiction. RSA 71-B:22 (Supp. 1973) (Appeal from Board of Taxation); RSA 76:16-a V (Supp. 1973).

The jurisdiction of the State board of taxation is specifically limited by statute to "matters involving questions of taxation properly brought before it." RSA 71-B:5 I (Supp. 1973) (Board of Taxation: Authority); see RSA 71-B:11 (Supp. 1973) (Board of Taxation: Jurisdiction). Since this court has determined that sewer rents are not taxes, the board of taxation correctly ruled that it lacked jurisdiction to decide plaintiff's claim. *Opinion of the Justices*, 93 N.H. 478, 482, 39 A.2d 765, 767 (1944); see *Niemiec v. King*, 109 N.H. 586, 588, 258 A.2d 356, 358 (1969); *Bigwood v. Merrimack Village District*, 108 N.H. 83, 88, 229 A.2d 341, 345 (1967).

Appeal dismissed.

Hillsborough
No. 6954

CLIFFORD N. WHEELER

v.

STATE OF NEW HAMPSHIRE & a.

June 30, 1975