

Donald M. Pollock
v.
Town of Gilford

Docket No. 3356-86

DECISION

A hearing in this appeal was held, as scheduled, on July 13, 1988. The Taxpayer was represented by himself, as the prior owner, Eric E. Jordan, as the current owner and Joseph W. Lessard, Jr., appraiser. The Town was represented by Arthur A. Morrill, Appraiser, State of New Hampshire Department of Revenue Administration, and Gene R. Littlefield, Appraiser, Town of Gilford.

The Taxpayer appeals, pursuant to RSA 76-16:a, the assessment of \$902,450 (land, \$146,000; buildings, \$756,450) placed on his real estate, located on Old Lake Shore Road, for the 1986 tax year. The subject property consists of a 41,040 square foot building on 7.1 acres of land.

Neither party challenged the Department of Revenue Administration's assessment sales ratio of 100 percent for the 1986 tax year for the Town of Gilford. Based on that ratio, the Taxpayer's assessment equates to a market value of \$902,450.

The Taxpayer argued he acquired the subject property known as the Gilford Hills Fitness Club at a small business administration in 1980 for \$430,000.

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Donald M. Pollock v. Town of Gilford

Taxpayer further argued he leased the subject property in 1983 on a net-net-net lease and in the Autumn of 1986 had to foreclose on that lease.

The Taxpayer further argued that he notified the members of the tennis club that it was for sale, but there was no sale as a result of some indicated interest on the part of the membership. The Taxpayer testified further that he listed the property with a Century 21 broker, who produced a buyer. The Taxpayer testified he did not know Eric Jordan at the time of the indicated interest in the subject property and that Eric Jordan was an associate of the realtor who had the listing. The Taxpayer then testified that the subject property was sold for a purchase price of \$555,000, which transaction closed on December 31, 1986.

The Taxpayer testified that the sale price included \$125,000 personal property and \$430,000 of real property.

The Town argued that there were no comparables and no way of using the income approach to determine the value. The Town further argued that they used the cost approach and determined that the replacement cost of the subject property was approximately \$1.5 million.

The Town testified it was aware tennis was in decline and that perhaps the current use of the subject property was not the highest and best use of the property. The Town also testified the land was worth more than it was assessed and had potential use for residential condominiums.

The Board finds the sale price of \$555,000 to be the best indicator of the fair market value for the subject property. The Board, however, finds no

Donald M. Pollock v. Town of Gilford

evidence substantiating the \$125,000 personal property value assigned to a portion of the sale.

The Board therefore rules the proper assessment for the 1986 tax year for the subject property is \$550,000.

If the taxes have been paid, the amount paid on the value in excess of \$550,000 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(Concurred, unavailable for

signature.)

Anne S. Richmond, Esq., Chairman

(Mr. Twigg did not sit.)

George Twigg, III, Member

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Raymond J. Damour, Member

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Peter J. Donahue, Member

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Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Donald M. Pollock, taxpayer; and the Chairman, Selectmen of Gilford.

Michele E. LeBrun, Clerk

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Date:

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