

Joseph A. Vivier and Angeline C. Vivier

v.

Town of Pelham

Docket No. 3380-86

DECISION

A hearing in this appeal was held, as scheduled, on March 8, 1988. The Taxpayers were not represented. The Town was represented by Michael J. Fedele, Assessor.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$99,150 (land, \$22,650; buildings, \$76,500) placed on their real estate, located on Tallant Road for the 1986 tax year. The subject property consists of an approximately 1.53 acre parcel of land improved with a Garrison residence, pool, and garages.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 50 percent for the 1986 tax year for the Town of Pelham. Based on that ratio the Taxpayers assessment equates to a market value of \$198,300.

The Taxpayers argued in their Application for Abatement of Real Estate Tax, "My property value is affected by neighbors violation of zoning ordinances prohibiting them running a Body Shop and storing unregistered cars on their

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property at 59 Tallant Road." The Taxpayers also argued in their Application for Abatement of Taxes for the year 1982-1986 to the Town of Pelham Selectmen's Office, "Because the property next to mine is allowed to operate an illegal Body Shop for the last five years and to store many unregistered vehicles on their property, which is severely affecting the value of my property and my view as well, I feel that the property taxes I am paying are much too high. I feel a 50 percent abatement is warranted as long as this illegal business is allowed to go on."

The Town argued the Taxpayers' evidence did not demonstrate the alleged illegal use of the abutting property as of April 1, 1986. The Town's representative testified the Town had issued complaints to the abutters and that other complaints were on file. The Town's representative also testified that during 1987, inspections were carried out by Town officials as part of a program of enforcement of zoning and other ordinances.

The Town argued that sales in the vicinity of the subject property indicated no diminution of value due to the alleged offending neighbor. The Town's representative also noted the Taxpayers acquired an abutting parcel for a full market sales price of \$80,000 in July, 1987. The Town's representative testified the Vivier purchase had not been verified as to the conditions of sale. The Town's representative also testified he had been appointed assessor for the Town in April of 1986.

The Board finds the Taxpayers presented no evidence to demonstrate a loss in market value of the subject property due to the alleged offending neighbor.

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The Board rules it has no jurisdiction on matters of neighbor activity except in those instances where the evidence and facts clearly demonstrate loss in value such as to prove clearly an unfair assessment.

The Board therefore rules the Taxpayers have failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayers just share of the common tax burden. The ruling is therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

— Anne S. Richmond, Esq., Chairman

(Mr. Twigg did not sit.)

George Twigg, III, Member

— Raymond J. Damour, Member

— Peter J. Donahue, Member

Date: December 13, 1988

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Joseph A. and Angeline C. Vivier, taxpayers; and the Chairman, Selectmen of Pelham.

— Michele E. LeBrun, Clerk

Date: December 13, 1988

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