

**Ann Gattineri
v.
Town of Newton**

Docket No. 3946-87

DECISION

A hearing in this appeal was held, as scheduled, on January 5, 1989. The Taxpayer was represented by herself and Donald M. Muir, her husband. The Town was not represented.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$90,100 (land, \$21,800; buildings, \$68,300) placed on her real estate, located on Whittier Street Extension for the 1987 tax year. The subject property consists of a three unit frame dwelling, a shed/barn, and a one-story, one unit dwelling with attached shed and garage area situated on 5 acres of land bounded on one side by a B & M Railroad Line and on the other side by the Plaistow Town Line.

Neither party challenged the Department of Revenue Administrations assessment-sales ratio of 40 percent for the 1987 tax year for the Town of Newton. Based on that ratio the Taxpayer's assessment equates to a market value of \$225,250.

The Taxpayer argued the assessment placed on the one-unit cottage of \$25,200 was an increase from a prior assessment of \$6,100 on a building which had not undergone substantial change. The Taxpayer further argued the only improvements or changes to the building had been the installation of windows, pine paneling, replacement of carpeting and replacement of a garage door. The Taxpayer further argued these improvements and repairs had a total cost of \$2,527

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during the period 1982 - 1987. The Taxpayer compared the cottage with a single family dwelling in the same neighborhood and argued the assessment of \$25,200 was excessive.

The Taxpayer testified the subject property was acquired in January, 1986, from her parents for a sale price of \$125,000. The Taxpayer further testified the sale price was arrived at by calculating the mortgage that could be supported by the existing rents at the time of sale. The Taxpayer also testified the apartments in the three-unit dwelling were occupied by long-term tenants and the rents received were low. The Taxpayer also testified, in her opinion, the subject property had a value of \$185,000 as of April 1, 1987.

The Taxpayer also testified the locale of the subject property was such as to be considered predominantly industrial in nature.

The Taxpayer testified the one-unit cottage was a converted shed and further testified and described the low ceiling height existing in a portion of the cottage.

The Board finds the testimony and evidence presented by the Taxpayer helpful but not conclusive for determination of the fair market value of the subject property. The Board finds the subject property, particularly the cottage, suffers from both economic depreciation due to its location and functional depreciation due to the nature of the building itself. The Board finds the assessment-sales equalized value of \$63,000 for the cottage should be depreciated ten percent for function and the whole property should then be depreciated five percent of its resulting market value, as indicated by the assessment-sales ratio for 1987 for the Town of Newton.

The Board therefore rules the proper assessment for the 1987 tax year is: \$83,200.

If the taxes have been paid, the amount paid on the value in excess of \$83,200 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

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BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esquire, Chairman

George Twigg, III, Member

Peter J. Donahue, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Ann Gattineri, taxpayer; and the Chairman, Selectmen of Newton.

Michele E. LeBrun, Clerk

Date:

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