

**Shirley Pelletier
v.
Town of Plaistow**

Docket No. 4064-87

DECISION

A hearing in this appeal was held, as scheduled, on March 9, 1989. The Taxpayer was represented by Lawrence A. Buswell, Jr., Esquire, John Ruth, Appraiser and herself. The Town was represented by Mary E. Pinkham and Bruce J. Bean, Department of Revenue Administration.

The taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$211,400 (land, \$89,600; buildings, \$121,800) placed on her real estate, located on 27 East Road for the 1987 tax year.

The parties agreed that the equalization ratio for the Town of Plaistow for the 1987 tax year was 100%.

According to the appellant her appeal is based on two factors:

- 1) A claim of disproportional assessment compared to comparable properties.
- 2) A claim that the Town gave no consideration to the abutting commercial activity which allegedly continued even after a very specific Superior Court order regulating hours of operation and other limiting factors.

The Taxpayer described in detail an operation on the abutting property which created noise, fumes, lights and other noxious impact on the subject property. The Taxpayer also complained of a wet basement and a number of problems with respect to the construction of the house which would indicate something less than an R-4 grade.

John Ruth, Appraiser, submitted a written appraisal which estimated the

fair market value on July 12, 1988 to be \$155,000 (sales comparison) "without"

Shirley Pelletier v. Town of Plaistow

the negative influence of the Hobbs Business next door and \$124,000 "with" the Hobbs Business in operation.

The Town's representatives, Ms. Mary Pinkham and Bruce Bean, suggested the grade be reduced from R-4 to R-3 1/2 to bring grade in line with similar properties basement. This will result in a reduction of \$11,550 off the building value.

The Taxpayer's appraiser used land and building comparables.

The Town expressed the opinion the subject property is in a residential neighborhood in transition to commercial uses (gas stations, duplex houses near Rt. 125).

The Board finds the grade should be reduced to R-3 1/2 and that a 10% functional depreciation given for the wet basement.

The Board finds that the Taxpayer can obtain relief from any violation of the courts order relative to restricting the Hobbs Business activities in the event that the terms and conditions set forth in said order are violated. Superior Court Stipulation #3 dated January 16, 1986, states, "That the plaintiff shall be permitted, in the event of violation by the defendant of the aforesaid order, to commence immediate proceedings in the Rockingham County Superior Court for relief at law and/or in equity to enforce this order."

Therefore, the Board rules the correct assessment for 1987 is as follows:

76,200 x .85 x .85 =	\$55,050
	\$10,450
	<u>\$ 1,500</u>
	\$67,000
	<u>x 1.5</u>
Buildings	\$100,500
Land	<u>\$ 89,600</u>
Total	\$190,100

If the taxes have been paid, the amount paid on the value in excess of \$190,100 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

(Ms. Richmond did not sit.)
Anne S. Richmond, Esq., Chairman

Shirley Pelletier v. Town of Plaistow

George Twigg, III, Member
Acting Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: December 20, 1989

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Peter G. Hurd, Esq., counsel for Shirley Pelletier, taxpayer; and the Chairman, Selectmen of Plaistow.

Michele E. LeBrun, Clerk

Date: December 20, 1989

0009