

Giannatsis Associates Realty Trust  
v.  
Town of Plaistow

Docket Nos. 4104-87 and 4298-88

DECISION

These two appeals, having been consolidated for hearing, were heard, as scheduled, on June 29, 1989. The Taxpayer was represented by James B. Giannatsis. The Town was represented by Mary E. Pinkham, Appraiser, State of New Hampshire Department of Revenue Administration, John McSorley, Appraiser, State of New Hampshire Department of Revenue Administration, and Diane M. Frechette, Appraiser, State of New Hampshire Department of Revenue Administration.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessments of \$80,450 (land, \$39,050; building, \$41,400) placed on its property located at 11 Walton Road, and \$1,444,350 (land, \$626,850; building, \$817,500) placed on its property located at 160 Plaistow Road for the 1987 tax year. The subject properties consist of an approximately 1,164-square-foot dwelling-style building on approximately .234 acre of land and an approximately 27,076-square-foot strip-mall-style building situated on approximately 2.79 acres of land.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 100 percent for the 1987 tax year for the Town of

Plaistow. Based on that ratio the Taxpayer's assessments equate to market

values of \$80,450 for 11 Walton Road and \$1,444,350 for 160 Plaistow Road, as of April 1, 1987.

Mr. Giannatsis testified the property at 11 Walton Road was a small house that had been an old farmhouse and he estimated that the value as of the date of the hearing was \$60,000 to \$80,000, with the fair-market value most probably at the lower end of that range. Mr. Giannatsis also stated he rented the property to his son and a friend for \$300 a month.

Mr. Giannatsis then described the situation at 160 Plaistow Road. He testified he had 7,000 square feet vacant and two other tenants were vacating the building. Mr. Giannatsis explained he leased the property at \$12 a square foot triple net with one tenant occupying 4,800 square feet at \$10 a square foot triple net. Mr. Giannatsis explained the tenants have five-year leases with options to renew.

Mr. Giannatsis offered his opinion that tenants were leaving due to the high taxes and that he would be only 60 percent occupied in the very near future.

The Town's representative testified the subject properties were appraised as other commercial properties in the Town. Ms. Pinkham stated the original appraisal for the 11 Walton Road property was based on an outside inspection. She continued by relating the poor quality of the construction and likened it to a fraternity house. Ms. Pinkham recommended a change in the grade of the building to R-2, resulting in a replacement value of \$32,600 with a 30-percent physical depreciation, a 30-percent functional depreciation, and a 1.5 multiplier, resulting in a building assessment \$23,950. The appraiser stated in her opinion the land value was a proper assessment.

Ms. Pinkham went on to testify that the sales analysis performed for the revaluation indicated a \$1,000-front-foot value for the subject property at 160 Plaistow Road. Ms. Pinkham described the building as a Class C and testified she inspected the property in July of 1987 with the owner. The appraiser defended the Town's assessment, stating that most of the expenses were passed on to the tenants due to the terms of the leases. Ms. Pinkham related the assessment valued the building at market rents, and expense and vacancy ratios is determined from the sales analysis.

The Board finds the Town's recommendation of adjustment for the property at 11 Walton Road appropriate. The Board finds the Taxpayer relied primarily on actual experience in its appeal for abatement for the property at 160 Plaistow Road. The Board finds the Taxpayer did not present any evidence of sales of similar property which would corroborate its position of reduced value for the property.

The Board rules the proper assessment for the 11 Walton Road property for the 1987 tax year is land \$39,050, building \$23,950, for a total assessment of \$63,000. The Board rules the Taxpayer has failed to prove the assessment on the property at 160 Plaistow Road is unfair, improper, or inequitable, or that it represents a tax in excess of the Taxpayer's just share of the common tax burden.

If the taxes have been paid, the amount paid on the value in excess of \$1,507,350 (\$63,000 for the 11 Walton Road property and \$1,444,350 for the

160 Plaistow Road property) 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

---

Anne S. Richmond, Chairman

(Mr. Twigg did not sit)

---

George Twigg, III

---

Peter J. Donahue

---

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to James B. Giannatsis, Trustee, Giannatsis Associates Realty Trust, to the Chairman, Board of Selectmen, Town of Plaistow, and to Richard Young, Director, Property Appraisal Division.

Michele E. LeBrun, Clerk