

Joanne F. Alighieri

v.

Town of Plymouth

Docket No. 4178-88

DECISION

The Taxpayer appeals, pursuant to RSA 76:16-a, her 1988 assessment of \$84,050 (land, \$27,450; building, \$56,600) placed on her real estate consisting of Unit C-2 of Tenney Brook Village I (the Property). The Taxpayer failed to appear, but consistent with our rule, TAX 102.03(g), the Taxpayer was not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry her burden and prove any disproportionality.

The Town argued the case should be dismissed as a settlement had been previously reached. The Town submitted copies of various correspondence (Exhibits TN-A through D) between Marvin F. Poer & Company and the Town and its appraisal agent, Apple Appraisal, Inc. The Town argued Marvin F. Poer & Company represented the Taxpayer and had filed the application for abatement with the Town on behalf of the Taxpayer and the other thirty-five units in

Tenney Brook Village I. In April 1989, Marvin F. Poer & Company reached a settlement with the Town and withdrew their 1988 applications for abatement.

The Board rules that the Taxpayer's representative, Marvin F. Poer & Company, had negotiated and settled this appeal locally and therefore the Board denies the appeal. The courts have held that agents have the authority to make a binding agreement on behalf of their client to dispose of an action. See Barbara Bock (Landstrom) v. Jerry Landstrom, 133, N.H. 161 (1990) (agent has authority to settle case).

The Town testified and submitted documentation that it made efforts to notify the Taxpayer of the settlement and to effectuate a withdrawal of this case before this board. The Taxpayer never communicated with the Town, its agent, or this board about the settlement and withdrawing the appeal. The board must attempt to manage its three-year backlog of cases and is concerned where an unnecessary action is allowed to continue, such as this, wasting this board's time and the hearing and travel time and expense of the local officials.

This board may award costs as in the superior court. RSA 71-B:9; TAX 201.05(c). Therefore, the board orders the Town to submit to the board and to the Taxpayer within 10 days of the clerk's date an affidavit of costs associated with their time and travel expense for the day of the hearing. The

board will review the affidavit and subsequently order the Taxpayer to pay the Town for any costs reasonably incurred by the Town.

SO ORDERED.

August 9, 1991

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Joanne F. Alighieri, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Plymouth.

August 9, 1991

Brenda L. Tibbetts, Clerk