

Denis J. Looney
v.
Town of Goffstown

Docket No. 4489-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$13,800 for a land only parcel identified as Map 19, Lot 48 and another parcel assessed for \$25,800 (land, \$2,800; improvements, \$23,000) and identified as Map 17, Lot 220 on Sharon Street, consisting of a vacant lot and a lot consisting of fuel storage tanks (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the properties were purchased in 1970 for use as a bulk plant for fuel oil business. The Taxpayer stated the properties were too close to the river and there was a risk of spills and when the Taxpayer sold his fuel oil business he was not able to sell the properties due to that risk.

The Taxpayer rendered his opinion of highest and best use was continued oil bulk storage or use improved with a smaller storage building or garage for a service company. The Taxpayer stated in his opinion, the fair value of the property was \$25,000 - \$27,000, as of April 1, 1988.

The Town argued that the improved property with the tanks had a land which was substantially reduced and treated as an unbuildable lot with the tank

improvements depreciated 50%. The Town also argued the land only property was depreciated for various factors and appreciated for its riverfront location.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$9,850 for the land only parcel identified as Map 19, Lot 48 and \$19,050 (land, \$14,100; improvements, \$4,950) for Map 17, Lot 220. This assessment is ordered because the improved property has improvements which had little or no value relative to the land and the Board thus finds accordingly.

If the taxes have been paid, the amount paid on the value in excess of \$28,900 for both properties shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: March 1, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Denis J. Looney, taxpayer; the Chairman, Selectmen of Goffstown; and Scott Bartlett, Appraiser, M.M.C., Inc.

Michele E. LeBrun, Clerk

Date: March 1, 1991

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