

Richard Sargent Heirs

v.

Town of Plaistow

Docket No. 5016-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$35,200 on land only (4.4 acres) (the Property). For the reasons stated below, the appeal for abatement is granted.

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.

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 it was disproportionally taxed.

The Taxpayer argued in its appeal and in a January 24, 1990 letter that the assessment was excessive because the Property is landlocked and without any access to a public way.

The Town argued the assessment was supported by the comparable sales used by the Town in arriving at the assessment.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$28,000. The inspector made an additional adjustment to the Town's assessment by allowing a 20 percent depreciation for lack of access.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$28,000. This assessment is ordered because the evidence was clear that the Property was without access to a public street. Even the Town testified it could not get to the Property to inspect if for the heaving.

If the taxes have been paid, the amount paid on the value in excess of \$28,000 shall be refunded with interest at six percent per annum from date paid to refund date.

February 5, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Brenda A. Branch, Esq., Counsel to the Taxpayer, and to Richard Young, DRA.

February 5, 1991

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Michele E. LeBrun, Clerk

