

Ernest F. Dupuis, Jr.
v.
Town of Tamworth

Docket Nos. 5380-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessments of \$371,700 (land, \$44,050; buildings, \$327,650) and \$29,540 (land, \$10,630; building, \$18,910) on parcels identified as Map 3-D, Lot 11F, Lot 7, and Map 3-D, Lot 11F, Lot 8, respectively. The two parcels consist of approximately 16 acres of land and are improved with mini-storage warehouses and a ranch-style office/manager's building (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 he was alerted to the possible overvaluation of his Property with a tax bill for 1988 that was four times his 1987 tax bill. The Taxpayer also argued the Town used the wrong class in describing the steel warehouse buildings and also noted there was no electricity or water to the storage units.

The Town argued the land value could be low and they were aware of a 35 percent occupancy of the Property as of April 1, 1988. The Town also stated one of the parcels of land, Lot 8, had no improvements on it, while the other parcel, Lot 7, had the mini-storage buildings as well as the manager's building and other improvements.

Based on the evidence, including the board's inspector's report, we find the correct assessment for Lot 7 should be, land \$28,180, composed of basic land value of \$8,980, paving \$17,000, and well and septic \$2,200, and buildings \$170,540, composed of \$17,300 for the manager's building and \$153,240 for the mini-warehouse buildings.

We also find the correct assessment for Lot 8 should be \$24,850.

This assessment is ordered because the board recognizes the land has been improved since the purchase and could be underassessed as a component of the total assessment, and the board also recognizes that the high vacancy rate of the storage units reduces their market value substantially from a value which could be obtained from using the cost approach.

The board also orders this assessment because there was a duplicate taxation of the manager's building on both parcels of land.

If the taxes have been paid, the amount paid on the value in excess of \$223,570 (Lot 7, \$198,720; Lot 8, \$24,850) shall be refunded with interest at six percent per annum from date paid to refund date.

February 21, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to Ernest F. Dupuis, Jr., the Taxpayer, to Pamela D. Albee, Esq., and to the Chairman, Board of Selectmen, Town of Tamworth.

February 21, 1991

Michele E. LeBrun, Clerk

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