

Frank Nichol, d/b/a Arlington Sample Book Company
v.
Town of Newport

Docket No. 5697-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$673,700 on three unimproved parcels of land and one improved parcel of land. The specific assessments are: Map 45, Lot 81--land, \$26,100; Map 45, Lot 1852--land, \$17,900; Map 45, Lot 1802--land, \$38,700; and Map 45, Lot 1362--land, \$56,400; buildings, \$534,600. The buildings are mill-type industrial buildings occupied by the Arlington Sample Book Company (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, 125 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the buildings were limited to light industrial use due to the water main undermining the first floor and other functional and physical problems with the buildings. The Taxpayer also argued the Property does not have adequate parking for full utilization of the space in an

industrial setting. The Taxpayer also argued the income potential of the Property was limited to warehouse-type rental values.

The Town argued they allowed additional physical depreciation for the condition of the floor and functional depreciation for the layout and loading area. The Town also argued the parking lot was not filled on various inspections by the appraiser.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$543,100. The land values remain as assessed, but the building shall be valued at \$404,000. This assessment is ordered because the Taxpayer presented evidence and met the burden of proof showing the Property was overassessed on its building component due to its condition and use.

If the taxes have been paid, the amount paid on the value in excess of \$543,100 shall be refunded with interest at six percent per annum from date paid to refund date.

April 1, 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 Gerry Prud'homme, representing the Taxpayer, and to the Chairman, Board of Selectmen, Town of Newport.

Michele E. LeBrun, Clerk

April 1, 1991

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