

Donald W. Martin
v.
Town of Bristol

Docket Nos. 5843-89 and 8335-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$146,800 (land, \$71,750; building, \$75,050) and the 1990 assessment of \$126,100 (land, \$43,850; building, \$82,250) on his real estate at 146 Lake Street, consisting of a real estate office building on a .59 acre lot (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 assessment was excessive because:

- (1)the steep slope of the rear of the lot limits the utility of the property;
- (2)the sales of three comparable properties with more usable land indicates the assessment is too high;
- (3)the basement area is smaller and shallower than indicated by the assessment card; and
- (4)the renovations of the second floor from office space to apartment area, while costing \$18,000, did not add to the property's overall value.

The Town recommended the land assessment for 1989 be reduced as it was for 1990. The Town argued that the comparables submitted by the Taxpayer were more residential in nature while the Taxpayer's Property was in an area more commercially developed with other real estate offices.

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Based on the evidence we find the correct assessments should be: 1989 - \$111,700 (land, \$43,850 and building, \$67,850); and 1990 - \$118,900 (land, \$43,850; building, \$75,050). These assessments are ordered because:

- (1)the adjustment made to the land value by the Town due to its steepness in 1990 is appropriate for 1989;
- (2)the building does not have any basement storage area; the Taxpayer testified that approximately only 150 square feet had a headroom height of 5 1/2 feet and the rest was true crawl space; and
- (3)while not all of the Taxpayer's renovation costs would be recapturable in the market, the Property's value is enhanced to some degree for its flexibility of utility by its multiple use. Obviously it was of some financial advantage to the Taxpayer to invest those sums in the renovations, and there are other players in the market that would also value that flexibility of utility. The Town's increase in the assessment from 1989 to 1990 of \$7,200 for the renovations is a reasonable estimate of the recapturable market value for those improvements.

If the taxes have been paid, the amount paid on the value in excess of \$111,700 for 1989 and \$118,900 for 1990 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Donald W. Martin, taxpayer; and Chairman, Selectmen of Bristol.

Valerie B. Lanigan, Clerk

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Date: April 2, 1992
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