

Robert G. and Ann M. Jones

v.

Town of Plaistow

Docket No.: 6371-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$212,550 (land, \$96,450; buildings, \$116,100) on 1.4 acres with a cape-style home (the Property). The Taxpayers indicated by letter that they would be unable to attend the hearing, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued, in their written submittals, the assessment was excessive because:

(1) a February 15, 1988 appraisal prepared by Daniel Ruddy estimated the fair market value of the Property to be \$166,000; and

(2) a 32 bay truck terminal was constructed abutting the subject which has had a negative impact on the value of the Property.

The Town argued the assessment was proper because:

(1) comparable sales in the neighborhood support the assessment, and

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(2) there are trees between the trucking terminal and the subject and the trucks do not drive by the Property, and no adjustment was made for any impact on the value of the Property.

Based on the evidence, we find the correct assessment should be \$180,700 (land \$82,000 and building \$98,700). This assessment is ordered because:

- 1) we find that the proximity and size of the trucking terminal has a negative impact on the market value of the Property and, thus, the assessment should be reduced by 15 percent; and
- 2) this finding is supported by the Taxpayers' appraisal and the general sales evidence submitted in the Norman (docket #6468-89) and Russo (docket #7237-89) appeals of which the board takes official notice.

If the taxes have been paid, the amount paid on the value in excess of \$180,700 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert G. and Ann M. Jones, Taxpayers; and Chairman, Selectmen of Plaistow.

Dated: September 9, 1992

Melanie J. Ekstrom, Deputy Clerk

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