

111 Quik Shop, Inc.

v.

Town of Hampstead

Docket No.: 6394-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$452,400 (land, \$278,100; buildings, \$174,300) on a 1.61 acre lot with a two-story convenience store with two gas pumps (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 disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the assessed value does not reflect the market value;
- (2) the land assessment is not equitable with surrounding lots, specifically five properties in the vicinity all have condition factors of 1.00 and the subject has a condition factor of 2.00;

- (3) there is no access to the Property from Rte. 111;
- (4) a property record card dated October 24, 1989 and received from the Town indicates an assessment of \$296,600, yet the Town indicated the proper assessment was \$452,400; and
- (5) an assessment of \$296,600 is fair.

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The Town argued:

- (1) the 1989 assessment was \$452,400;
- (2) it is agreed that the land value is exorbitant and the Town recommends that the condition factor be dropped from 2.00 to 1.25;
- (3) the condition factor should not be lower than 1.25 because this Property is a highly visible parcel right on Rte. 111 and a land value of \$175,000 is fair based on the Property's location on a corner lot, its visibility and the fact that it is located inside a commercial community;
- (4) the gross base rate of \$50.00 on the building is fair based on its usage; and
- (5) a revised assessment of \$349,300 (land, \$175,000; building, \$174,300) is recommended.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$314,900 (land \$140,600 and building \$174,300). This assessment is ordered because the board finds, based on the evidence of comparable properties with frontage on Rte. 111, that the land condition factor should be reduced to 1.00.

If the taxes have been paid, the amount paid on the value in excess of \$314,900 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

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George Twigg, III, Chairman

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 Fred M. Russell, Taxpayer; and Chairman, Selectmen of Hampstead.

Dated: October 7, 1992

Melanie J. Ekstrom, Deputy Clerk

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