

Cynthia L. (Colby) Norman

v.

Town of Plaistow

Docket No.: 6468-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$160,250 (land, \$96,500; buildings, \$63,750) on a 37,150 square foot lot with a home at 64 Kingston Road (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 Property was purchased for \$125,000 in July, 1988;
- (2) a trucking terminal (Atlas Trucking) is down the street from the subject and the 18 wheelers when heading north or south have to travel past the Property;
- (3) the assessment is excessive when compared to similar properties; and

(4) the assessment on the land is excessive because over half of the land is solid ledge.

Cynthia L. (Colby) Norman

v. Town of Plaistow

Docket No.: 6468-89

Page 3

The Town argued the assessment was proper because:

- (1) the Taxpayer is not overassessed any more than other similar properties as evidenced by the sale of several similar properties (Exhibit TN-A); and
- (2) the properties used as a comparables by the Taxpayer were generally in busier areas of Town.

Upon questioning, the Town allowed that the trucking from the Atlas Trucking company could have perhaps a 10 to 15 percent effect on the market value of the Property.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$138,100 (land \$74,350 and building \$63,750). This assessment is ordered because:

- 1) lacking any specific evidence to the contrary, the Department of Revenue Administration's 1989 equalization ratio of 1.02 percent is the best evidence before the board as to the general level of assessment;
- 2) the traffic from the Atlas Trucking company has a negative effect on the Property's market value;
- 3) the sales of the subject property and the Russo property both for \$125,000 are some evidence of the market in this immediate neighborhood;
- 4) the Town testified that the \$600 per front foot used in appraising the land portion of the assessment was derived from sales not impacted by the truck traffic; and
- 5) adjusting the front foot price to \$450 for the reasons stated above results in a

Cynthia L. (Colby) Norman

v. Town of Plaistow

Docket No.: 6468-89

Page 4

reasonable assessment of \$138,100.

If the taxes have been paid, the amount paid on the value in excess of \$138,100 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Cynthia L. (Colby) Norman

v. Town of Plaistow

Docket No.: 6468-89

Page 5

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Cynthia L. (Colby) Norman, Taxpayer; and Chairman, Selectmen of Plaistow.

Dated: September 8, 1992

Melanie J. Ekstrom, Deputy Clerk

0007