

Glenn Woodward and Mark Woodward

v.

Town of Greenville

Docket No. 6684-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$267,600 (land, \$20,300; buildings, \$247,300) on Mill Street, consisting of two, four-unit apartment buildings (the Property). The Town failed to appear, but consistent with our Rule, TAX 102.03(g), the Town was 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 they were disproportionately taxed.

The Taxpayers argued the assessment was excessive given:

- 1) the rental income and the expenses;
- 2) the functional problems with the apartment layouts;
- 3) the 3 apartments that lack sinks in the bathroom;
- 4) problems with the lack of parking and heating systems; and
- 5) high maintenance costs.

The Town did not appear at the hearing and presented no evidence.

The board's inspector inspected the property, reviewed the property-tax card, and filed a report with the board. This report concluded the proper assessment should be \$227,300 (land \$20,200; buildings \$207,100). The inspector

made the following adjusted the Town's assessment by increasing the physical depreciation because of the age and condition of the Property.

Based on the evidence we find the correct assessment should be \$210,300 (land, \$20,200 and building \$190,100). This assessment is ordered because:

1) the board accepts the Taxpayer's testimony as confirmed by the inspector; and

2) the inspector, who did not get inside, failed to adjust for the lack of bathroom sinks and propane heat in three apartments.

The Taxpayer testified the units without bathroom sinks and with propane heaters are harder to rent and when they rent, rent for 20% less than comparable units. Therefore, using the inspectors \$227,300 divided by 4 equals \$28,420/unit. Then depreciating the 3 units by 20%, results in \$22,730 for these units. So, 5 x \$28,420 plus 3 times \$22,730 equals \$210,300 (rounded).

If the taxes have been paid, the amount paid on the value in excess of \$210,300 shall be refunded with interest at six percent per annum from date paid to refund date.

The board must comment on the Town's failure to appear and failure to submit any documents whatsoever to support the assessment. The board must review individual property assessments within the context of the assessments generally in the Town. The board cannot do this if the Town does not appear or submit supporting material. Additionally, these Taxpayers and other taxpayers from the Town who appeared testified the Town had had minimal or no contact with them during the process. This dereliction has, hopefully, stopped given the mandate in RSA 76:16 II.

This board may also award costs as in the superior court. RSA 71-B:9; TAX 201.05(c). Based on the Town's failure as discussed above, the board orders the Town to pay the Taxpayers filing fee of \$40.00. See RSA 76:17-b.
SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Glenn & Mark Woodward, taxpayer; and the Chairman, Selectmen of Greenville.

Melanie J. Ekstrom, Deputy Clerk

Date: March 10, 1992

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