

Russell A. Poirier and Sandra L. Poirier

v.

Town of Hooksett

Docket Nos.: 6786-89 and 8565-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's 1989 and 1990 assessments of \$246,300 (land, \$64,700; buildings, \$181,600) and \$228,600 (land, \$64,700; buildings, \$163,900), respectively, on 1.71 acres and apartment building (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessments were 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 failed to carry this burden.

The Taxpayers argued the assessments were excessive because:

- (1) the Property is a five-family building on 1.7 acres which experienced an approximate 25 percent vacancy loss in 1989 and over 50 percent in 1990;
- (2) in 1989, substantial expenses were incurred due to water problems with unit 3;
- (3) an October, 1986 appraisal estimated a fair market value of \$228,000;

- (4) recent sales in the neighborhood do not support the subject's assessment;
- (5) the nature and character of the neighborhood has been depreciated due to the purchase and industrial use (storage of petroleum, sandblasting, bodywork) by neighboring J.P. Noonan as confirmed by Appraiser Robert Mailhot in an October, 1991 letter; and

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(6) the assessment should be \$156,662.

The Town agreed the 1989 assessment was excessive and should be reduced to \$228,600 and argued the revised 1989 and the 1990 assessments were proper because:

- (1) the Property is unique;
- (2) the multi-family market did not begin to drop more than on single family homes until some time in 1989; and
- (3) the crossing was not put in for J.P. Noonan until November, 1991.

We find the Taxpayers failed to prove the Property's 1989 revised assessment of \$228,600 and the 1990 assessment were disproportional. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. Further, the Taxpayers evidence regarding the effect on the fair market value of the Property as a result of the industrial usage of the neighboring property was not convincing for the tax years on appeal as the Taxpayers testified that the J.P. Noonan property was only being used for parking in 1989 and 1990.

If the taxes have been paid, the amount paid on the value in excess of

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\$228,600 for 1989 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Russell A. and Sandra L. Poirier, Taxpayers; and Town of Hooksett Assessing Department.

Dated: September 2, 1992

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Melanie J. Ekstrom, Deputy Clerk

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