

John M. and Ann Dee Hawthorne

v.

Town of Derry

Docket No.: 6949-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$464,600 (land, \$66,100; buildings, \$398,500) on a .321 acre lot with a three-story wood structure (the Property). The Taxpayers own, but did not appeal, their property located at 48 South Avenue. The Taxpayers failed to appear, 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 denied.

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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because it is in excess of a just and proportionate share and far in excess of market value as well as in excess of value based upon income analysis method.

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The Town argued the assessment was proper because:

- (1) the Town of Derry performed a general revaluation effective April 1, 1989 and the Property is assessed via the income approach;
- (2) the assessment falls within a range of what commercial properties were selling for in Derry prior to the date of value;
- (2) based on the appraisal report submitted at the hearing (Town's Exhibit A), the Property had a fair market value of \$460,000 as of April 1, 1989; and
- (3) the Taxpayer is not paying a disproportionate share of the tax burden.

Board's Rulings

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.

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John M. and Ann Dee Hawthorne, Bank One NH, Taxpayers; and Chairman, Selectmen of Derry.

Dated: December 4, 1992

Valerie B. Lanigan, Clerk

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