

**Martin R. Taylor**

**v.**

**Town of Derry**

**Docket No.: 6960-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of: \$473,800 and \$385,200 on a 49-site, mobile-home park (total \$859,000); and \$414,000 on an 11.36-acre flea market. For the reasons stated below, the appeal for abatement is granted on the mobile-home park.

The Town objected to the appeal on the flea market because the Taxpayer did not file an RSA 76:16 abatement application. The board rules the Taxpayer's application on the flea market was not properly filed and is dismissed. The remainder of this decision relates to the mobile-home property (the Property). See RSA 76:16-a.

The Taxpayer has the burden of showing the assessments were 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.

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The Taxpayer argued the assessments on the property were excessive because:

- (1) the Town applied arbitrary valuation figures;
- (2) the Property's income demonstrated a \$470,000 value; and
- (3) the assessments did not adequately reflect certain factors about the Property.

The Town submitted appraisal reports which included estimates of value by the cost, income and market approaches and an assessment comparison of comparable properties. The report concluded a total assessment of \$748,300 was proper.

The Town argued the \$748,300 assessment was proper because:

- (1) the site values were reduced to reflect problems with a well;
- (2) the Town used a cost approach to reflect certain problems and the quality of the Property; and
- (3) it was supported by the report.

Based on the evidence, we find the correct total assessment should be

\$666,545. This assessment was calculated as follows:

\$175/month per site  
x 49 sites  
x 12 months  
\$102,900 potential gross income  
.95 vacancy and collection loss  
\$ 97,755  
x .75 expenses and reserve  
\$ 73,300 net operating income (rounded)

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$$\frac{\div .11 \text{ capitalization rate}}{\$666,545 \text{ total assessment (rounded)}}$$

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Given the poor quality of the park and the homes therein, the Town's market rent of \$200.00 was excessive. If the market rent for Rancourt Park -- a superior park -- was \$225.00, then \$200.00 was too high for the Property. Additionally, while the Town's argument about fixing up the park to allow higher rents has some validity, the board is skeptical about this analysis when:

- (1)the park is in such poor shape;
- (2)the existing lots with pads are substandard for better homes; and
- (3)the existing homes are inferior.

In other words, even if the park was updated, people would still be living in older homes in a park that is not well laid out and has deficiencies that would require significant changes and reworking to be more desirable. The park obviously has substantial obsolescence that must be factored in the analysis.

If the taxes have been paid, the amount paid on the value in excess of \$666,545 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

George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William Petch, representative for the taxpayer; and Chairman, Selectmen of Derry.

Dated: June 26, 1992

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Valerie B. Lanigan, Clerk

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