

Robert H. Webber

v.

Town of Epping

Docket No.: 6964-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$1,430,300 (land, \$1,090,600; buildings, \$339,700) on a race track on Route 27 (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 presented a report to the board, and the board will not reiterate all of those arguments. The Taxpayer argued the assessment was excessive because:

- (1) it exceeds the assessments on other race tracks;
- (2) the grandstands are 30 years old;

- (3) the prime land is over assessed; and
- (4) much of the other land is swampy.

The Town argued the assessment was proper because:

- (1) it is an established track that is near New England Speedway;
- (2) it was set using the same methodology used throughout the Town; and
- (3) it is proportional.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$967,650 (land, \$694,500; buildings, \$273,150). This assessment is ordered because:

- 1) after the hearing, the board sent it's inspector out to view the property again; the inspector filed a second report (copy enclosed) in which he made the following recommendations:
 - a) the building values should be reduced by 15 percent for their age and condition;
 - b) the value for the paving of the track should be reduced by 25 percent for its condition;
 - c) the prime site area should be reduced from 12 acres to 10 acres;
 - d) the prime site value should be reduced by 10 percent due to its wet parking area; and
 - e) the rear land value should be reduced an additional 20 percent for the brook, pond and swamp.
- 2) the board finds the inspector's report supports many of the arguments presented by the Taxpayer and should be given some weight;
- 3) the board finds that the prime site value should receive a 25 percent adjustment rather than the 10 percent recommended by the inspector;
- 4) this adjustment is based upon the board's general knowledge and experience (The agency's experience, technical competence, and specialized

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knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b)). that prime sites of two to ten acres in the Rte. 125 area of Epping had a value of approximately \$100,000 per acre in 1986 to 1988;

5) the Property is in a location that is inferior to Rte. 125 and has physical features (eg. wetland, flood hazard zone and railroad tracks) that lessen the utility of the Property.

If the taxes have been paid, the amount paid on the value in excess of \$967,650 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

Paul B. Franklin, Member

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 Robert H. Webber, Taxpayers; and Chairman, Selectmen of Epping.

Dated: November 20, 1992

Valerie B. Lanigan, Clerk

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