

Berardino and Elisa Pasquale

v.

Town of Goshen

Docket No.: 7099-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$137,550 (land, \$46,200; buildings, \$91,350) on a 6-acre lot with a ranch-style house (the Property). 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the revaluation grossly over stated the Property's value;
- (2) the Property has significant wetlands;
- (3) the house is very basic with electric heat;
- (4) the Property was purchased in 1987, during an inflated market, for \$112,000 with \$7,000 of improvements;

- (5) the abutting properties adversely affect the Property's value;
- (6) the Property was worth \$105,000 in 1989; and
- (7) it was disproportional when compared to certain comparables.

The Town, after reinspecting the Property, agreed the assessment should be reduced as follows:

- (1) an additional -10% for topography; and
- (2) an additional -5% for physical depreciation.

These changes result in an adjusted assessment of \$129,800 (land \$41,750; building \$88,050).

The Town argued the adjusted assessment was proper because:

- (1) it represents an adjusted assessment from the original assessment arrived at after two reviews;
- (2) it is supported by two sales and the consistent methodology used throughout the Town; and
- (3) the market continued to climb from 1987 to 1989.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$128,465 (land \$39,665 and building \$88,800). This assessment is ordered because the Taxpayers' presented sufficient evidence to indicate some locational adjustment was required. The Taxpayers testified the type and quality of the nearby properties turn off prospective buyers from the Boston market. Because the Taxpayers did not present any data from which the board could derive this adjustment, we have chosen only -5% off the land value. The Town demonstrated the adjusted assessment was otherwise proper, and even the Taxpayers' comparables supported this.

The Taxpayers asked the board to compare the Property's assessment with the assessments on the following properties: Walter, Nelson, Henderson, and

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Wright. (The Walter and Nelson property-record cards were supplied at the hearing, and the Henderson and Wright cards were mailed to the board after the hearing.) These other assessments supported the Property's assessments; they do not show disproportionality.

The Taxpayers' major flaw was not presenting any 1989 market data. To carry their 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.

If the taxes have been paid, the amount paid on the value in excess of \$128,465 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

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 Berardino and Elisa Pasquale, Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk