

William F. Hopkins, Jr.

v.

Town of Madbury

Docket No. 7111-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$427,400 (land, \$139,400; buildings, \$288,400) on his real estate, consisting of a horse arena, stables, apartments and an office on 96.8 acres on Drew and Freshet Roads (the Property). The Town failed to appear, but consistent with our Rule, TAX 102.03(g), the Town was not defaulted. This decision is based on the evidence presented to the board. 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 he was disproportionally taxed.

The Taxpayer argued:

- 1) the assessment was far in excess of the purchase price of the property in 1984;
- 2) the net purchase price of the real estate in Madbury, after deducting for personal property (farm equipment, tack equipment, etc.) and the 50 acres in Durham, was estimated at \$299,500;
- 3) this sale price, after being adjusted by the 1984 equalization ratio, should be a good indication of market value; and
- 4) the property loses money because of the vacancy rate in the renting of the horse stalls.

The Town argued in a letter dated March 10, 1992, that beyond the abatement already granted by the Town, the Taxpayer has failed to prove any disproportionality.

While not entirely dismissing the Taxpayer's purchase of the Property in 1984, as probative evidence, the Board does find it less than conclusive evidence in determining the proper 1989 assessment for several reasons:

1) one sale price does not necessarily define market value; market price is what an individual pays to attain property while market value is a broader less finite measure of what is attained in the overall marketplace. The taxpayer's cite from Public Service Co. of New Hampshire and a. v. Town of Seabrook, 133 N.H. 365, at 376 (1990) is not on point with this case as the cite references the use of sales, assumed to be market value, in the calculation of a town wide equalization ratio as opposed to determining market value of an individual property;

2) the sale occurred in 1984 and no evidence was submitted as to what had occurred to the market for this type of property from 1984 to 1989, the year under appeal;

3) the sale included many variables that need to be adjusted for estimating either the sale price or market value attributable to the real estate in Madbury. Such variables included the 50 acres in Durham, the value of the personal property and the first mortgage taken by the grantor in the amount of 80 percent of the total real and personal property transaction price.

However, based on the Taxpayer's testimony and the Board's experience (See RSA 541-A:18, V(b)), the Board rules that a large horse stable and riding arena operation such as this suffers some disutility, due to its special purpose nature and construction and the seasonal rental capability of the horse stalls. To account for this functional obsolescence, the Board rules the board's inspector's appraisal (copy attached) should have a total of minus 30 percent for functional depreciation on the arena, stables and office. The apartments themselves do not suffer from this functional problem.

Therefore, based on the evidence we find the correct assessment should be \$351,850 (land, \$139,400 and building \$212,450).

If the taxes have been paid, the amount paid on the value in excess of \$351,850 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to William F. Hopkins, Jr., taxpayer; and Chairman, Selectmen of Madbury.

Valerie Lanigan, Clerk

Date: March 20, 1992

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