

Christine M. and Robert B. Russo

v.

Town of Plaistow

Docket No.: 7237-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$160,450 (land, \$89,200; buildings, \$71,250) on a 30,000 square foot lot with a split ranch home at 70 Kingston Road (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) a trucking terminal (Atlas Trucking) is down the street from the subject and the 18 wheelers when heading north or south have to travel past the Property;
- (2) the Property was purchased in August, 1989 for \$125,000; and
- (3) the assessment on the land is excessive when compared to the Morse property

on Old County Road.

The Town argued the assessment was proper because:

(1) the Taxpayers are not overassessed any more than other similar properties as evidenced by the sale of several similar properties (Exhibit TN-A); and

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(2) the Morse property used as a comparable by the Taxpayer is on a windy side road which sales showed had a lower land value.

Upon questioning, the Town allowed that the trucking from the Atlas Trucking company could have perhaps a 10 to 15 percent effect on the market value of the Property.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$140,200 (land \$68,950 and building \$71,250). This assessment is ordered because:

- 1) lacking any specific evidence to the contrary, the Department of Revenue Administration's 1989 equalization ratio of 1.02 percent is the best evidence before the board as to the general level of assessment;
- 2) the traffic from the Atlas Trucking company has a negative effect on the Property's market value;
- 3) the sales of the subject property and the Norman property both for \$125,000 are some evidence of the market in this immediate neighborhood;
- 4) the Town testified that the \$600 per front foot used in appraising the land portion of the assessment was derived from sales not impacted by the truck traffic; and
- 5) adjusting the front foot price to \$450 for the reasons stated above results in a reasonable assessment of \$140,200.

If the taxes have been paid, the amount paid on the value in excess of \$140,200 shall be refunded with interest at six percent per annum from date paid to

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refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert B. and Christine M. Russo, Taxpayers; and Chairman, Selectmen of Plaistow.

Dated: September 8, 1992

Melanie J. Ekstrom, Deputy Clerk

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