

Arliss Hill, et al

v.

Town of Conway

Docket No.: 7344-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$634,900 (land, \$437,500; buildings, \$197,400) on a 1.5-acre lot with a restaurant (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) it was disproportional to other commercial properties, especially given the Property's problems with access and frontage;
- (2) the Property has no direct access from Route 16; and
- (3) the access is through the mall road and the mall is not a major mall, requiring a

30% downward adjustment.

The Town argued the assessment was proper because:

- (1) it was proportional to other assessments in the mall; and
- (2) the land value was the same as used on other commercial properties in the area.

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Board's Rulings

We find the Taxpayers failed to prove the Property's assessment was disproportional. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Elliott W. Taylor, Representative for the Taxpayers; and Chairman, Selectmen of Conway.

Dated: September 16, 1992

Melanie J. Ekstrom, Deputy Clerk

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