Frank Lyman, Jr.

v.

Town of Pittsfield

Docket No.: 7410-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of:

Map R43 Lot 14$581,800 (consisting of a large residence with pool on 49.6 acres)

Map R43 Lot 17$248,632 (consisting of a dwelling, garage/storage building and barn on 63 acres of which 54 acres are assessed in current use)

(the Property). The Taxpayer owned four other properties but did not appeal them to the board. For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessments were 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 argued the assessments were excessive because:

Map R43 Lot 17

(1) the garage/storage building is a superadequacy for the Property due to the planned bed and breakfast use for it was not able to be finalized due to lack of zoning approval; and

(2) an appraisal performed by Chapman Appraisal Co. estimated the market value as of April 1989 of $268,000.

Map R43 Lot 14

(1) the Property has outstanding views and is improved with a chalet and a large concrete addition with an indoor pool and an office and work area;

(2) an appraisal performed by Chapman Appraisal Co. estimated the market value as of April 1989 of $424,500;

(3) the addition is so unique and large that it is a superadequacy and would not recapture anywhere near its replacement cost; and

(6) the buildings are such an unusual mix of styles and construction types that the market would react negatively.

The Town argued the assessments were proper because:

Map R43 Lot 17

(1) the buildings were appraised by the cost approach; and

(2) the site has an exceptional view.

Map R43 Lot 14

(1) the Property was appraised on a cost basis with appropriate depreciations; and

(2) the buildings could have alternative uses.

Board's Rulings

Based on the evidence, we find the correct assessments should be:

Map R43 Lot 17: $225,032 (land $83,332 and building $141,700)

Map R43 Lot 14: $417,810 (land $69,700; buildings $348,110).

These assessments are ordered because:

Map R43 Lot 17

1) the land condition factor should be reduced to 2.25 to be consistent with the market data submitted by the Taxpayer and the testimony by the Town;

Map R43 Lot 14

2) the replacement cost for the main buildings should be depreciated 15 percent to account for the extreme size, conflicting design and building styles and the general unique and over built (and market limiting) aspects of the improvements; and

3) the contributory value of the vault should be reduced to $5,000 due to its limited utility.

If the taxes have been paid, the amount paid on the value in excess of the values listed above 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

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert J. Finn, Esq., Representative for the Taxpayer; and Chairman, Selectmen of Pittsfield.

Dated: September 9, 1992

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Melanie J. Ekstrom, Deputy Clerk

Frank Lyman, Jr.

v.

Town of Pittsfield

Docket No.: 7410-89

ORDER

The board received, on October 9, 1992, a request for clarification from the Town as to the assessed value for parcel R43-14. The request for clarification was received more than twenty days from the Decision date (September 9, 1992) as required by RSA 541:3.

However, the board has reviewed its calculations and finds that its ordered assessment of $417,810 is correct. Therefore, regardless of the level of the previous assessment, the Town should abate parcel R43-14 by the amount not previously abated to the value of $417,810.

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 Robert J. Finn, Esq., Representative for the Taxpayer; and Chairman, Selectmen of Pittsfield.

Dated: October 26, 1992
Valerie B. Lanigan, Clerk