

Frank C. and Clara E. Volpe

v.

Town of Pittsfield

Docket Nos.: 7424-89 and 10750-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$157,300 (land, \$37,100; buildings, \$120,200) on map U03 lot 112, a .15 acre lot with a pub and 3 apartments and the 1990 assessments of \$137,800 (land \$37,100; buildings, \$100,700) on map U03 lot 112, and \$89,600 (land, \$22,700; buildings, \$66,900) on map U03 lot 113, a three apartment house on Depot St. (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessments were 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 assessments were excessive because:

Map U03 Lot 112

(1) Nolfo property sold in Aug. 1989 for \$116,000 and, while being a better building, is the most comparable to the Taxpayers' Property; and

(2) the market value is estimated to have been \$90,000 to \$100,000.

Map U03 Lot 113

(3) the lot is so small that there is only room for one car to be parked on site; and

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(4) the market value is estimated to have been approximately \$80,000.

The Town at the hearing recommended the assessment for lot 112 to be adjusted to \$117,100 based on a corrected cost estimate for the building.

The Town argued the assessment of lot 113 was appropriate based upon the sale of a comparable property at 13 Berry St. for \$87,000.

Board's Rulings

Based on the evidence, we find the correct assessments should be: map U03 lot 112, \$117,100 (land, \$37,100; buildings, \$80,000), and map U03 lot 113, \$83,900 (land, \$17,00; buildings, \$66,900). These assessments are ordered because:

(1) we find the Town's recommended adjustments for lot 112 are reasonable; and
(2) the land condition factor for lot 113 should be reduced to a 1.5 to properly account for its limited utility due to its size (.07 acre).

If the taxes have been paid, the amount paid on the value in excess of \$201,000 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

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Frank C. and Clara E. Volpe, Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: September 16, 1992

Melanie J. Ekstrom, Deputy Clerk

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