

Clifford E. Hilchey

v.

Town of Madbury

Docket No.: 7491-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$24,200 on his manufactured home located in the Bunker Lane Mobile Home Park (the Property). 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 disproportionality.

The Taxpayer argued the Property is overassessed because:

- (1) the 1976 mobile home was purchased in 1983 for \$20,000 and was on rented land;
- (2) in February, 1989, notification was received that the owner of the land was converting the park to a condominium park and the options were to either buy the land or move the mobile home;

(3) a special exception was required because the mobile home was located over the plot lines -- this action reduced the value of the home;

(4) the Taxpayer could not locate a mobile home park that would accept an older mobile home, could not find a buyer, and was prohibited from renting the mobile home by park rules;

(5) notification of approval to purchase the lot was not received until September, 1991;

(6) the land was offered for \$34,000 and negotiated to \$31,000 and the Taxpayer spoke to five different banks after he received notification and three of the banks would not loan on older mobile homes, others required substantial down payments;

(7) the monthly park rent was \$275;

(8) the Taxpayer finally sold the mobile home for \$3,000 to someone who moved it out of state; and

(9) in normal times, the assessment would be reasonable, but due to the above circumstances, the value was substantially reduced and a fair market value as of April 1, 1989, is \$10,000.

The Town did not appear at the hearing and submitted no written evidence.

Based on the evidence, we find the correct assessment should be \$5,200.

The Town must annually review its assessments and adjust those that have declined or increased more in value than values generally changed in the Town.

RSA 75:8 states:

The assessors and selectmen shall, in the month of April in each year, examine all the real estate in their respective cities and towns, shall reappraise all such real estate as has changed in value in the year next

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preceding, and shall correct all errors that they find in the then existing appraisal ***.

See also, 73:1, 73:10, 74:1, 75:1. As stated in Appeal of Net Realty Holding Trust, 128 N.H. 795, 799 (1986), a fair and proportionate tax can only be achieved through a constant process of correction and adjustment of assessments. In yearly arriving at an assessment, the Town must look at all relevant factors. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975).

If the taxes have been paid, the amount paid on the value in excess of \$5,200 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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Clifford E. Hilchey, taxpayer; and Chairman, Selectmen of Madbury.

Dated: April 22, 1992

Valerie B. Lanigan, Clerk