

William E. Hanson

v.

Town of Hancock

Docket No.: 10109-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$136,600 (land \$41,300; buildings \$95,300) on Lot 70, a .094-acre lot with building (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is granted to the Town's adjusted assessment.

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 failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

1) the building has structural defects, e.g., tin shingle siding, the windows have no lintels, and there is only one exit from the second floor, which violates building code;

- 2) the Property's lot lines are the building's south and east walls, which directly affects the marketability;
- 3) the building value increased \$4,700 in one year's time, yet no other buildings increased that much;
- 4) there are errors on the property-assessment card, e.g., the brick is not masonry, there is not drywall throughout the building, and the plaster is not brick; and
- 5) the two abutting lots, both with more acreage, have land values \$13,700 less than the Property

The Town adjusted the assessment to \$125,300 (land \$38,300; building \$87,000). The building was assessed as conventional instead of antique, and the land was adjusted to \$38,300. The Town argued the revised assessment was proper because it based the assessment on the board's decision of a similar property, and because it adjusted the Property's assessment to reflect its commercial value and parking space.

Board's Rulings

Based on the evidence, the board finds the proper assessment should be the Town's adjusted \$125,300 assessment. The adjusted assessment reflects appropriate adjustments to the original assessment. The problem with the Taxpayer's analysis was that he did not provide sufficient data concerning the lots used for comparisons. For example, he did not provide information concerning the lots' uses or improvements. Additionally, the Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair

market value. This value would then have been compared to the Property's

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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.

Based on the evidence before the board, the Town's adjusted assessment is the ordered assessment.

If the taxes have been paid, the amount paid on the value in excess of \$125,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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 William E. Hanson, Taxpayer; and Chairman, Selectmen of Hanson.

Dated: April 26, 1993

Melanie J. Ekstrom, Deputy Clerk

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