

Anthony Kolski and Wini Dean

v.

Town of Boscawen

Docket No.: 10222-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$224,300 (land \$25,600; buildings \$198,700) on a 1/3-acre lot with a home and barn (the Property). The Taxpayers 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.

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).

The Taxpayers argued the assessment was excessive because:

- (1) an abutting property that was assessed for \$213,000 was condemned and had a depressing effect on market value in the neighborhood;
- (2) a comparative market analysis estimated a sale price of \$160,000 - \$175,000; and
- (3) the average assessed value of four other comparable homes was \$198,900.

The Town argued the assessment was proper because:

- (1) the Town-wide revaluation done in 1988 resulted in a \$224,300 value;
- (2) the Town made adjustments, resulting in a decrease of \$30,600 assessment and \$710 abatement of the 1991 taxes, which would have rectified any omissions during the revaluation;
- (3) in June, 1992, the Town offered another 5% depreciation adjustment, which the Taxpayers did not respond to; and
- (4) the Town believed the market analysis was artificially low and that the abated value was below the properly adjusted selling range.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded the proper assessment should be \$177,800 (land \$25,600; buildings \$152,200). The inspector adjusted the building's depreciation factor to reflect additional physical deterioration.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$182,300 (land \$25,600; building \$156,700). This assessment is ordered because the board finds the additional physical and economic depreciation offered by the Town to be reasonable based on the evidence submitted. No further adjustments are warranted because the board finds the market analysis submitted by Norwood Realty to be of little probative value owing to the fact that the three comparables used were in Concord and Penacook - not in the local taxing jurisdiction and because the market analysis was done one year after the appeal year.

The Taxpayers further argued that the Property's tax doubled in one year as a result of the reassessment. The amount of property taxes paid by the Taxpayers were determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. at 217.

The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

If the taxes have been paid, the amount paid on the value in excess of \$182,300 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

Paul B. Franklin, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Anthony Kolski and Wini Dean, Taxpayers; and Chairman, Selectmen of Boscawen.

Dated: April 5, 1993

Melanie J. Ekstrom, Deputy Clerk

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