Alfred Mortimer and Frances Mortimer

v.

Town of Deerfield

Docket No. 10571-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $135,900 (land, $49,900; buildings, $86,000) on a house located on North Road, Route #107 (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). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

1) it was based on 1990 sales;

2) the land is wet and sloping; and

2) it was disproportional when compared to the assessments on three comparable

properties - - Thomas, Bagley and Markson.

The Town argued the assessment was proper because:

1) four comparable properties from the same proximity indicated the assessment is equitable; and

2) it was fair and equitable.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment was proper and warranted no change. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

Board's Rulings

Based on the evidence, the board finds the correct assessment should be $125,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

The board reviewed the Taxpayers' and the Town's comparables and concluded the Taxpayers had shown disproportional assessment when the Property's assessment was compared to the assessment on similar properties,

such as Thomas, Bagley and Markson. The board, therefore, applying its judgment and expertise, concluded the assessment was excessive and should be $125,000. The Town's evidence demonstrated that a consistent methodology was used throughout the Town, but that

methodology resulted in an overassessment on this particular Property.

We did not accept the inspector's report because we found the Taxpayers' evidence concerning other assessments to be persuasive.

If the taxes have been paid, the amount paid on the value in excess of $125,000 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

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Alfred & Frances Mortimer, Taxpayers; and the Chairman, Selectmen of Deerfield.

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Melanie J. Ekstrom, Deputy Clerk

Date: June 11, 1993

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