

TBC Realty

v.

Town of Tilton

Docket No.: 10630-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$646,900 (land \$115,600; buildings \$531,300) on a 12.66-acre lot with a retail building and five storage buildings (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 assessment was excessive because:

- (1) the construction was low cost, below average, wood frame as opposed to metal frame, and the improvements are in very poor condition;
- (2) the land is totally developed due to slopes in the back, wetlands and the power line which bisects the Property; and
- (3) the income approach was relied upon to arrive at a fair market value of \$578,000.

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The Town recommended reducing the building valuation by \$6,200 by depreciating the five storage buildings due to age.

The Town argued the revised assessment was proper because:

- (1) the taxpayer's discounted cash flow procedure is speculative due to the assumptions made over a ten year period; and
- (2) the taxpayer's 1987 building permit estimated a cost of construction at \$600,000.

**Board's Rulings**

Based on the evidence, we find the correct assessment should be \$588,500 (land \$115,600 and building \$472,900). This assessment is ordered because the board finds the age and condition of the storage buildings was not adequately addressed by the Town. The Taxpayer supported its argument through photographs that clearly depicted the physical deterioration of the buildings. The board has applied a further 10% physical depreciation to the storage buildings beyond the Town's recommended 2%.

If the taxes have been paid, the amount paid on the value in excess of \$588,500 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

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Equitax, Agent for TBC Realty, Taxpayer; and Chairman, Selectmen of Tilton.

Dated:  
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Valerie B. Lanigan, Clerk