

Ann Levanti

v.

Town of Alexandria

Docket No.: 10674-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$120,400 (land \$81,800; buildings \$38,600) on a 24.3-acre lot with a single-family home (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. However, the board held a hearing on April 23, 1993 on the sixteen 1990 Alexandria appeals to receive evidence on the basis of the land valuation and the general assessment methodology employed by the Town. The board has reviewed the written submittals and issues the following decision. 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 house was inspected December 13, 1989, and determined to be unlivable due to wood rot;
- (2) the abutting 12-acre, vacant lot was sold on January 11, 1991, for \$34,000; and
- (3) the Property should have been assessed as vacant land because the building had no value.

The Town failed to submit any arguments to support the assessment.

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. The inspector recommended no adjustment to the land assessment but adjusted the building to \$0 value due to its condition. 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. In this case, the board gave the inspector's report no weight.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$104,420 (land \$81,800; buildings \$22,620). This assessment is ordered because the board concluded additional depreciation (total of -60% depreciation) should be given to the building given the evidence submitted by the Taxpayer. This assessment is also in line with the time-adjusted 1991 sale of twelve acres

and the house. The board did not adopt the inspector's recommendation concerning the building because the building still had some value, and the additional depreciation reflects the building's poor condition.

If the taxes have been paid, the amount paid on the value in excess of \$104,420 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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Ms. Ann Levanti, Taxpayer; and Chairman, Selectmen of Alexandria.

Melanie J. Ekstrom, Deputy Clerk

Date: July 9, 1993