

Gary Krol and Carolyn T. O'Connell

v.

Town of Deerfield

Docket No. 10708-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$195,800 (land, \$52,400; buildings, \$143,400) on 89 Old Center Road, consisting of a house on 5.16 acres of land (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) the Property was assessed for \$167,000 in 1988;
- 2) no landscaping or other improvements have been added since 1988;
- 3) the Town gave no consideration and therefore no adjustment for the fact

that,

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"the property 2 lots down from ours is badly deteriorated and has a junkyard status and directly affects our value.";

4) values have been declining in recent years; and

5) a market analysis suggests a value of \$167,900.

The Town argued the assessment was proper because:

1) they selected four comparable properties in Deerfield, all within reasonable proximity to the subject and having at least three acres; and

2) valuation indicators show equity exists between comparable properties.

Based on the evidence, we find the correct assessment should be \$176,200.

This assessment is ordered because the Board finds an adjustment for economic depreciation should be made to the original assessment to recognize the negative effect the "junkyard" has in close proximity to the subject.

The Board adopts the recommendation of its review appraiser, Mr. J. P. Estey, who applies a -10% adjustment to the Town's assessment (copy attached) to recognize the junkyard influence.

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 agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

The Taxpayers argued the assessment should be reduced because the market for the property has been declining. Evidence of a declining market alone is not #10708-90, Krol/O'Connell v. Deerfield

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a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayers need to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove their property is disproportionately assessed.

If the taxes have been paid, the amount paid on the value in excess of \$176,200 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 Gary Alan Krol and Carolyn T. O'Connell, taxpayers; and the Chairman, Selectmen of Deerfield.

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Melanie J. Ekstrom, Deputy Clerk

Date: May 24, 1993

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