

Rev. Gerald F. Joyal

v.

Town of Deerfield

Docket No.: 10748-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$143,600 (land \$50,700; building \$92,900) on a 3-acre lot with a building (the Property). The Taxpayer 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 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 Property was purchased September 6, 1988, for \$123,900;
- 2) a June 20, 1988 appraisal estimated a \$130,500 market value; and

3) the market values were declining when the revaluation was done, yet the revaluation was based on values that did not reflect the true economy, and the assessment increased \$19,670 in 1989, despite the decline in values.

The Town argued the assessment was proper because:

- 1) the Property's assessment was within the range of comparable homes on 3-acre lots;
- 2) the Property has two bathrooms and central air conditioning, which increased the value; and
- 3) the land assessment was consistent with other properties in the Town.

The board's inspector reviewed the assessment-record card and 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. 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 proper assessment should be \$130,000. 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

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allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

The board reached this conclusion based on the following:

- 1) the Taxpayer's 1988 purchase price, which is some evidence of the Property's value;
- 2) the Taxpayer's appraisal;
- 3) the board's knowledge, as supported by the changes in the equalization ratio from 1988 to 1989, which indicate that the market was at a minimum stable and most likely declining; and
- 4) based on a review of the sales prices of the Town's comparables, the Property's assessment exceeded the market value. (The board compared the sales prices with the effective square-foot-size of the houses on each property, and then reviewed the median per-square-foot value and compared that to the Property's per-square-foot assessment. This analysis was consistent with the board's judgement and the Taxpayer's evidence that the assessment was excessive.) The board did not rely upon the inspector's report in making this decision.

If the taxes have been paid, the amount paid on the value in excess of \$130,000 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

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(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

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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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Rev. Gerald F. Joyal, Taxpayer; and Chairman, Selectmen of Deerfield.

Dated: June 21, 1993
0008/0005

Melanie J. Ekstrom, Deputy Clerk