

Marie A. Bolster

v.

Town of Deerfield

Docket No.: 10773-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$90,500 (land, \$46,900; buildings, \$43,600) on a 6-acre lot with a manufactured home (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, in a report prepared by Ralph J. Cutting, that the assessment was excessive because:

- (1) the lot has a 150 foot-long driveway that cuts through a wet area;
- (2) the lot is excessively wet with rocky outcrops;

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- (3) the land was overassessed given the wet areas; and
- (4) the total assessment should be \$80,150.

The Town argued the assessment was proper because:

- (1) four comparables indicated the assessment was in line with other assessments; and
- (2) it was fair and equitable.

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 proper assessment should be \$84,150 (land, \$40,550; buildings, \$43,600). The inspector made the adjustments to the Town's land assessment to address the wet areas. 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 concludes the proper assessment should be \$84,150 as recommended by the board's inspector. The Taxpayer submitted sufficient evidence to show that the lot has severe water problems, and since the board's inspector and the Taxpayer's representative concluded additional adjustments were warranted, and we accepted these conclusions. We did not,

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however, adopt the Taxpayer's land assessment because the representative did not submit sufficient data to support the \$35,500 land figure. Specifically,

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he did not do a direct comparison of the comparables to the subject, and he did not explain how the land values were time trended to April 1, 1990.

If the taxes have been paid, the amount paid on the value in excess of \$84,150 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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to RJC & Association, representative for Marie A. Bolster, Taxpayer; and Chairman, Selectmen of Deerfield.

Dated: June 21, 1993

0008/005

Melanie J. Ekstrom, Deputy Clerk