

Walter H. and Florence R. Skantze

v.

Town of Gilmanton

Docket No.: 10842-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$360,040 (land \$32,040; building \$328,000) on a 123-acre lot with a two-unit house and numerous outbuildings including an apartment (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 numerous outbuildings require extra maintenance and detract from the Property's value;

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- 2) the assessment failed to adequately address the buildings' physical and functional depreciation (The Taxpayers' submittals listed several of the problems with the buildings.);
- 3) three appraisals from 1985 to 1991 estimated values less than the assessment;
- 4) as a result of the revaluation, the assessed value of the buildings increased by a greater percentage than the average increase in the Town;
- 5) although the Property is a four-unit property, the Property's highest and best use would be a single-family home with one rental unit; and
- 6) due to the size and uniqueness of the Property, there were no good comparable sales within the Town for the Town to base their assessment on.

The Town argued the assessment was proper because:

- 1) the Property has substantial improvements (three living units and outbuildings) in excellent condition on 123 acres of open and forested land;
- 2) the Taxpayers' 1985, \$350,000 appraisal, when adjusted to the revaluation date, supports the assessment;
- 3) the land and buildings were appraised consistently with other similar property in the Town based on market data derived at the time of the revaluation;
- 4) the land assessment had not been increased due to the views or the multiple

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use of the single-family lot; and

5) most of the Taxpayers' appraiser's comparables are all located outside of Gilmanton and are not comparable to the Property in size, age or desirability.

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 \$280,950 (land \$32,040; buildings \$248,950). The inspector adjusted the physical and functional depreciation on the buildings and the barn. 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 \$302,790 (land \$32,040, buildings \$270,750). The assessment is revised by applying -15% functional depreciation to the replacement cost new of the main house and apartment and by applying -50% adjustment to the value of the replacement cost of the barn. The board rules the assessment and adjustments are proper because:

1) the appraisal and evidence submitted by the Taxpayers support the need for additional adjustments for the layout and functional utility of the main

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house, ell and apartment over the garage;

2) the board finds the Taxpayers' evidence of the minimal contributory value of the barn credible and, therefore, the barn value is adjusted by -50%; and

3) the adjustments made to the buildings are tempered by the board finding and agreeing with the Town that the land assessment for the 6-acres not in current use is low given the fact that the site has a good view and contains buildings of multiple use.

The board finds that a reduction in the assessment to the value submitted by the Taxpayers' appraiser is not proper because:

1) the trending rate employed by the appraiser is not correct based on the change in the equalization ratios for Gilmanton as submitted in the Town's brief;

2) the appraiser made no adjustments between the subject and the comparable for either the quality in construction of the buildings or the amount of square footage of the buildings;

3) the Taxpayers' appraiser's adjustments for location and conditions are, even as he admits, speculative at best; and

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4) the majority of the Taxpayers' adjustments to the sales dealt with aspects related to the land whereas the majority of the discrepancy between the parties' lies in the building value.

If the taxes have been paid, the amount paid on the value in excess of \$302,790 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

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 Walter H. and Florence R. Skantze,

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Taxpayers; and Chairman, Selectmen of Gilmanton.

Dated: July 21, 1993

Valerie B. Lanigan, Clerk

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