

Kenneth and Roberta Hasselbrack

v.

Town of Weare

Docket No.: 10872-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$216,700 (land \$63,300; building \$153,400) on a .4-acre lot with an 8-unit building (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 denied.

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 failed to carry this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

1) the building had no basement, yet was assessed with one, and the Town assessed all of the apartments as renovated when only two had been renovated;

- 2) the Property was assessed as commercial/industrial when similar, wood-frame apartment buildings were assessed as residential;
- 3) comparable properties received 30% depreciation, yet the Property received only 15% depreciation despite the building's condition and on-going renovations;
- 4) the Property had a higher, per-acre land assessment and condition factor than comparable properties and neighboring lots did; and
- 5) the building value should be \$117,997 and the land value should be \$40,000.

The Town adjusted the assessment by \$3,500 to address the lack of basement, resulting in the current assessment. The Town argued the adjusted assessment was proper because:

- 1) the Property was purchased in December 1986, for \$215,800 and has since had two apartments renovated and the building exterior painted;
- 2) the Taxpayers failed to establish the Property's April 1, 1990, market value;
- 3) the Taxpayers' comparables were not comparable because two are single-family homes on larger lots, one is the Town library and museum, and the apartment rental properties have \$48,340 and \$58,325 per-unit assessments compared to the Property's \$27,100 per-unit assessment; and
- 4) the Property was assessed equitably with other properties in the Town.

The board's current inspector, Mr. Scott Bartlett, reviewed the assessment-record card and the parties' briefs and filed a report with the board (copy attached). 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.

NOTE: The board's prior inspector, who has since retired, also reviewed this appeal. His report (attached) indicated the assessment should be \$177,200.

The board did not rely upon the prior inspector's report. The current inspector's report was relied upon as confirmatory of the board's conclusion.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to carry their burden. The Taxpayers raised two general issues: 1) the need for additional physical depreciation to bring the Property in line with the depreciation given other multi-unit buildings; and 2) the per-acre land assessment when compared to other properties. Both of these issues will be specifically addressed below.

The board's conclusion is based on the Taxpayers' lack of market data. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their burden, the Taxpayers should have made a

showing of the Property's fair market value. This value would then have been

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compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

On multi-unit properties, value can also be determined by looking at the income of the property. While the Taxpayers have raised several arguments concerning the assessment, they did not submit any income and expense data, which would be probative of the Property's value. Both parties agreed there was a paucity of sales of multi families, but the comparable-sales approach is only one value approach. In this case, the lack of any income and expense data could not be overlooked because any assessment change must be based on the Property being overassessed relative to the market. See RSA 75:1 (assessment must be based on market value).

Concerning the two specific arguments made by the Taxpayers, Mr. Bartlett's inspector report adequately addresses those arguments. The only concern the board had was whether the Town had assessed the Property as if all of the eight units had been renovated in 1990 when only two had been renovated by 1990. However, there was insufficient information from the Taxpayers concerning the renovations of the two units and the condition of the other units, and again, the lack of any market data forces the board to deny this appeal.

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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 that a copy of the foregoing decision has been mailed this date, postage prepaid, to Kenneth and Roberta Hasselbrack, Taxpayers; and Chairman, Selectmen of Weare.

Dated: October 26, 1993

Lynn M. Wheeler, Deputy Clerk

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