

**Estate of Ronald V. Dimock and Barbara R. Dimock**

**v.**

**Town of Gilmanton**

**Docket No.: 10892-90**

**DECISION**

The "Taxpayer (the Executrix of the Estate)" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$141,500 (land, \$25,000; buildings, \$116,500) on 1.93-acres with 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) an appraisal prepared by George A. Boley estimates a market value of \$83,000 as of July 7, 1990; and

(2) a further adjustment for functional and physical obsolescence needs to be made.

The Town argued the assessment was proper because:

- (1) an analysis of land sales during the 1990 revaluation indicate a value for an acre site of \$21,000 excluding any adjustments;
- (2) the Taxpayer's appraisal is based on comparables all outside the Town and should be disqualified;
- (3) the Taxpayer's land valuation is consistent with neighboring values; and
- (4) comparable sales indicate Taxpayer's Property is within established guidelines;
- (5) the Taxpayer has failed to show any disproportionality; and
- (6) the methodology used was fair and equitable throughout the town.

The board's inspector, reviewed the assessment-record card, reviewed 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. The inspector made the following adjustments to the Town's assessment: the physical and functional depreciation was adjusted due to the age and condition of the building.

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.

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Board's Findings

Based on the evidence, we find the correct assessment should be \$120,900 (land, \$25,000; building, \$95,900). This assessment is ordered because:

- 1) the board finds the description of the physical and functional deficiencies of the dwelling (crumbling foundation and resulting sagging floors; outdated kitchen and plumbing; old windows and doors; sagging porches, etc) warrants further depreciation than noted by the Town;
- 2) the board's inspector's report reasonably adjusts for the dwelling's obsolescent features; and
- 3) the board places little weight in the Taxpayer's appraisal because the basis and magnitude of the adjustments are not substantiated; also the use of comparables outside the Taxpayer's distinct location, Gilmanton Iron Works, raises questions as to the adequacy of the location adjustment.

If the taxes have been paid, the amount paid on the value in excess of \$120,900 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

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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

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this  
date, postage prepaid, to Barbara J. Hyslop, Executrix for the Estate of  
Ronald V. Dimock and Barbara R. Dimock, Taxpayer; and Chairman, Selectmen of  
Gilmanton.

Dated: June 3, 1993

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Melanie J. Ekstrom, Deputy Clerk