

Ivon and Joan E. Boyer

v.

Town of Brookline

Docket No.: 8397-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$197,700 (land, \$64,100; buildings, \$33,600) on lot D-55-6 (Lot 6) a single-family home on two (2) acres and \$65,200 on lot D-55-5 (Lot 5) a vacant 2 acre lot. 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(3); Appeal of Town of Sunapee, 126 N.H. 214 217 (1985). We find the Taxpayers failed to carry this burden and prove they were disproportionally taxed.

The Taxpayers argued the assessment on Lot 5 was excessive because:

- (1) The Town had abated the 1991 assessment by \$8,000 and;
- (2) Nearby lots were selling for \$38,000 to \$50,000;

The Taxpayers argued the assessment on Lot 6 was excessive because:

(1) Built in 1990 for a total cost of \$170,500, (land \$65,500;
building \$105,000;

(2) Figures from local realtors established a range from \$145,000 to
\$170,000, with two realtors around \$150,000, and;

(3) the Town miscalculated the square footage on the second floor.

The Town argued the assessment was proper because:

(1) The Town's assessments exceed fair market value and Taxpayers
evidence relates to market value not assessed value;

(2) Comparable properties were assessed similarly to the subject
and;

(3) the second floor was properly measured and assessed.

The starting point for reaching a decision is to recognize the
difference between fair market value and assessed value. The taxpayers'
arguments were presented using fair market value while the Town's position was
premised on assessed value. The concepts of fair market value and assessed
value are two different but related concepts. Fair market value is the
property's value in the present market. Assessed value is the value set
during the reval and used in assessing taxes. To assist in equating these two
values, the DRA conducts an annual study comparing the assessed values to fair
market values, arriving at what is called an "equalized ratio." For 1990, the
Town's equalized ratio was 1.23%. This means the Towns assessments exceeded
the fair market values by approximately 23%.

Thus, Lot 6 had a \$197,700 1990 assessed value but only a \$160,731
equalized 1990 value (i.e. \$197,700 divided by 1.23). (Note: This \$160,731
is approximately \$10,000 less than Taxpayers total costs.) Taxpayers'
evidence indicated a 1991 value of \$145,000 - 170,000, with two realtors
around \$150,000. A 1991 value needs two adjustments to arrive at a proper

1990 assessment; (1) increase (i.e. trend) the 1991 value to reflect the declining market from '90 to '91 (see realtors and Town's letters); and (2) apply the equalized ratio. (The resulting number also will be judged by the board's knowledge and experience to ensure its within an acceptable range of values.

Lot 6. The Taxpayers final issue concerning square footage carries no weight given the Town's June 27 response on this issue.

The board concludes, based on the Taxpayers cost and the realtors letters, Lot 6 had a 1991 fair market value of \$160,000. This \$160,000 needs to then be trended to April 1, 1990 by 8% (see Taxpayers' ERA letter), equaling \$172,800 for a April 1, 1990 fair market value. Then apply the 1.23% ratio would result in a 1990 assessment of \$212,544.¹

The 1990 assessment of \$197,700, therefore, is within a proper range, and the Taxpayer has failed to prove disproportionality.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Date: August 12, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Henry F. Spaloss, Esq., for taxpayers; and Philip H. Winter, Chairman, Town of Brookline.

Date: August 12, 1991

¹ Note: The board is not suggesting the town should assess Lot 6 at \$212,544. This number was simply used as an example of why taxpayers failed to carry this burden.

Melanie J. Ekstrom, Deputy Clerk