

Elinor R. McGowen

v.

Town of Northfield

Docket No.: 8568-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$57,800 (land, \$30,900; buildings, \$26,900) on a 1975 mobile home (14' x 66') on a 2.04 acre lot on Oak Hill Road (Map R-9 Lot 17A-2) (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) the purchase price of the mobile home in 1980 was \$12,000;
- (2) the cost of the lot was \$8,500 with an artesian well;

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- (3) the lot is triangular with 209.32' on the road and sidelines of 703.15' and 844.35' tapering to an acute angle;
- (4) the topography is uneven with significant ledge outcropping;
- (5) land in rear of lot unusable due to narrowness;
- (6) the roof leaks, water damage to ceiling and walls (photos submitted);
- (7) exterior walls sprung (photos submitted);
- (8) electrical wiring chewed by mice and new roof needed;
- (9) new kitchen cabinets don't constitute a "modern kitchen"; and
- (10) the Taxpayer had an independent fee appraisal done by Paul Doucette who found a January 9, 1993 value of \$21,000.

The Town argued the assessment was proper because:

- (1) the mobile home was assessed at base rate of \$35.20 per square foot;
- (2) the depreciated value of the mobile home was \$26,700 (applying an 18% depreciation factor);
- (3) the land was adjusted 5% because of road conditions; and
- (4) the same methodology was utilized in comparable properties of Anna Moulton and Linda Sheridan and another owned by Michelle Colby.

Based on the evidence, we find the correct total assessment should be \$38,000. This assessment is ordered because the equalization ratio in 1991 and 1992 was 1.24% according to the Department of Revenue Administration. The Taxpayer's appraiser found a market value of \$21,000 as of January 9, 1993. The Board finds an additional negative adjustment for physical condition to

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the mobile home should be made as well as a functional adjustment to the land for impaired utility for its triangular shape and topography. This assessment

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is also supported by several comparables submitted by the Taxpayer of superior properties that were assessed for slightly less; one of the comparables of a larger unit and better lot sold for \$35,000 in May of 1991.

If the taxes have been paid, the amount paid on the value in excess of \$38,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

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

Paul B. Franklin, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Elinor R. McGowen, Taxpayer; and Chairman, Selectmen of Northfield.

Dated: March 25, 1993

Melanie J. Ekstrom, Deputy Clerk

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