

Anthony Costa

v.

Town of Tilton

Docket No.: 8869-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" adjusted 1990 assessments of: \$201,800 (land \$53,900; buildings \$147,900) on Lot 22, a 4.8-acre lot with a house and camp; and \$8,000 on Lot 22A, a vacant, 4-acre lot (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 denied.

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 failed to carry his burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because an October 24, 1990 appraisal estimated a \$170,000 value for both lots.

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The Town reinspected the Property and found several discrepancies that were corrected, resulting in the revised \$201,800 assessment. The Town reduced the building value to \$147,900 after determining that a portion of the house had only a crawl space and not a basement, the outside dimensions were incorrect, the building only has 2 fireplaces not 3, an additional 5% economic depreciation was warranted to address the proximity to Route 3/11 and the business zoning, and an additional 5% functional depreciation was warranted to address the camp's kitchen and bath conditions. The Town also reduced the assessment on Lot 22 due to access problems, i.e., no frontage.

The Town argued the adjusted assessment was proper because:

- 1) comparable number one in the Taxpayer's appraisal report is not comparable, i.e, the appraiser never inspected the property, the \$20,000 condition adjustment was not warranted because the building's condition and quality were equal to the Property, the comparable has 800 more square footage than the Property, the appraiser only valued the camp at \$4,000 even though it had the same living potential as other camps in the Town assessed at \$18,000, no adjustment was made to the comparable to address the single-family zone where the Property's house lot is located in a business zone, and the appraiser valued both lots as one even though the lots are assessed separately -- Lot 22A is zoned agricultural and Lot 22 is zoned business; and
- 2) the Taxpayer was not assessed the additional use of the camp as is normally

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done because it is in a business zone.

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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. This report concluded the Town's 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.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to meet his burden of proof. Furthermore, the board finds the Town's adjustments to the assessments to be sufficient.

The Taxpayer's entire case rested upon the appraisal. The Town responded with problems it had with the appraisal, and the board found other problems. The following issues lead the board to not accept the appraisal:

- 1) the appraisal incorrectly adjusts comparable one and two by subtracting \$4,000 from the comparables for the garage when \$4,000 should have added since the comparables did not have a garage when the subject did;
- 2) the appraiser stated that most weight was given to comparables two (\$160,300) and three (157,500) but the value conclusion was \$170,000, which did not make sense to the board, and the board discovered that the \$170,000

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figure coincides with the average of comparable one, two and three;

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- 3) the comparables were not adjusted for their location when the Property was located in a business zone and comparable one was located in a residential zone;
- 4) two of the three comparables were from outside of the Town;
- 5) there was no documentation for the \$4,000 cottage figure; and
- 6) the appraisal was not time adjusted to April 1, 1990 when the market was falling in 1990.

NOTE: Two of the appraiser's comparables are located in Sanbornton, not Tilton.

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 Anthony Costa, Taxpayer; and Chairman,

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Selectmen of Tilton.

Dated: July 14, 1993

Melanie J. Ekstrom, Deputy Clerk

0008/0005