

Roger Siodmak

v.

Town of Atkinson

Docket No.: 8982-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$339,600 (land \$146,300; buildings \$193,300) on a 3.740-acre lot with a house (the Property). 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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried the burden of proof and showed disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the building is comprised of three rental units with limited market appeal as rental property;
- (2) an appraisal for refinancing purposes prepared in Feb. 1992 indicated a value of \$205,000; and
- (3) the Property was purchased in May of 1986 for \$210,000.

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The Town, at the hearing, recommended a reduction in the assessment to \$279,400 and argued the revised assessment was proper because:

(1) the living area of the units is greater than that testified to by the Taxpayer; and

(2) three comparables, after adjustments are made for differences in size, date of sale, quality and condition, landscaping, etc., support the assessment.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$266,850 (land \$114,300 and building \$152,550). This assessment is ordered because:

(1) the Town's revised land assessment reflects the utility of the lot for a three unit dwelling; and

(2) an additional 5% functional depreciation should be applied to the dwelling to account for the limited contributory value of the finished area over the garage; this area is too expansive to be economically added to one of the rental units and the Town zoning prohibits its use as an office with the continuation of the multi-residential use.

If the taxes have been paid, the amount paid on the value in excess of \$266,850 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Roger Siodmak, Taxpayer; and Chairman, Selectmen of Atkinson.

Dated: September 28, 1993

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Valerie B. Lanigan, Clerk