

Estate of George H. Clapp

v.

Town of Merrimack

Docket No.: 8989-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$73,800 (land \$55,400; building \$18,400) on Map 4B, Lot 145, a 1-acre lot with a capped foundation (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 assessment was high compared to neighboring properties;
- 2) the Property decreased in market value yet increased in assessed value; and
- 3) a 1988 appraisal estimated a \$32,500 value.

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The Town failed to submit any arguments to support the assessment and was finally defaulted.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$60,800 (land, \$55,400; building, \$5,000). This assessment is ordered because, based on the photographic evidence, the building has limited transferable market value and an estimated \$5,000 is found for its utility and storage. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

The Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

If the taxes have been paid, the amount paid on the value in excess of \$60,800 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 generally new evidence will not be accepted. Filing this motion is a

prerequisite for appealing to the supreme court. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Greta Kelly, Agent for Taxpayer; and Office of the Assessor, Town of Merrimack.

Dated: May 7, 1993

Melanie J. Ekstrom, Deputy Clerk

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