

**Newburyport Five Cents Savings Bank**

**v.**

**Town of Newton**

**Docket No.: 9262-90**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$72,500 (land \$17,50; buildings \$55,000) on a single-family residence on a .92-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 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 property is only 70% complete;

- 2) the fair market value is \$115,000 which equates to a \$43,700 assessed value;
- 3) an appraisal done on February 28, 1991 indicated a \$100,000 value;
- 4) the Property is listed for sale for \$115,000; and
- 5) a 100% equalization ratio would result in a \$190,800 assessed value, and the Property would not sell for that much.

The Town argued the assessment was proper because:

- 1) the Property is 95% complete;
- 2) the equalization ratio is 42%, not 38%, as the Taxpayer argues;
- 3) the assessment has been the same from 1988 to now, and has never been contested before.

#### Board's Rulings

Based on the evidence, we find the correct assessment should be \$52,900 (land \$17,500; buildings \$35,400). The board's inspector reviewed the file and the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$52,900. The assessment was calculated as a two-story house, when the house has one and three-quarter stories. A 30% functional noncompletion adjustment was also made, resulting in the new assessed value. This assessed value is in line with the comparables submitted in the Taxpayer's appraisal.

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

---

Paul B. Franklin, Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Newburyport Five Cents Savings Bank, Taxpayer, and Chairman, Selectmen of Newton.

Dated: September 24, 1992

---

Melanie J. Ekstrom, Deputy Clerk

0005