

Oak Hill Development Corp.

v.

Town of Goffstown

Docket No.: 9424-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessments as follows (the Property):

<u>Map\Lot</u>	<u>Land</u>	<u>Building</u>	<u>Total</u>
6-71-1	\$72,100	\$174,300	\$246,400 (6 unit apt. bldg)
6-71-14	\$70,300	\$117,200	\$187,500 (Duplex)

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).

The Taxpayer argued the assessment was excessive because:

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- 1) the valuation is too high;
- 2) commercial properties have dramatically declined in the past three years;
- 3) comparables within a 3-4 mile area were valued in a \$135,000 to \$185,000 range;
- 4) this apartment building would not compare to the high range of the comparables since the units are heated by electricity; and
- 5) the Property is over assessed by \$90,000.

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- 1) the Property has been on the market for over two years, with an asking price of \$149,000 and then dropped to \$139,000;
- 2) two comparables nearby assessed at \$144,000 and \$170,300 indicate the Property is over assessed by \$25,000.

The Town argued the assessment was proper because:

- 1) a revaluation was done in 1988 and no adjustments have been made due to the declining market; and
- 2) comparables submitted indicate the Taxpayer's Properties are being treated equitably with similar property.

Board Rulings

Based on the evidence we find the assessments are:

<u>Map\Lot</u>	<u>Land</u>	<u>Building</u>	<u>Total</u>
6-71-1	\$72,100	\$156,850	\$228,950 (6 unit apt. bldg)
6-71-14	\$70,300	\$ 92,200	\$162,500 (Duplex)

These assessments are ordered because:

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1) the board finds that electric heat regardless of whether it's paid by the landlord or tenant would be a detriment to the market value;

2) while the Taxpayer's building was graded a lower grade than all the comparables submitted by the Town, the board finds an additional 10% on the building is warranted. The board finds no further adjustment is warranted due to the lack of any credible market evidence having been submitted by the Taxpayer.

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1) the board finds with the Taxpayer, that the Property is overassessed by \$25,000; and

2) this finding is based on Taxpayer's asking price, Taxpayer's evidence of market value and some indication of value by the income approach (the assessment record cards indicate the rent in 1989 was \$650 per unit).

If the taxes have been paid, the amount paid on the value in excess of \$391,450 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald F. Langan, President, Oak Hill Dev. Corp., taxpayer; and Chairman, Selectmen of Goffstown.

Date: December 28, 1992

Melanie J. Ekstrom, Deputy Clerk

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