

Norma Jean Griffin Irrevocable Trust

v.

Town of Enfield

Docket No.: 9453-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$146,200 on lot 44/19 and \$26,100 on lot 44/8 (land only) (total \$172,300) (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).

The Taxpayer argued the assessment was excessive because:

- 1) a September 1990 "appraisal" estimated the Property's value at \$103,000 - \$117,000;
- 2) it was significantly higher than the assessment on the property abutting on the north, when the abutting property is larger and superior;

- 3) lot 8 is wetlands and unbuildable;
- 4) lots 10 and 12 recently sold for \$100,000;
- 5) a "market analysis" showed values of \$103,500 - \$114,500; and
- 6) the property-record card contains certain errors.

The Town argued the assessment was proper because:

- 1) it was comparable to other assessments; and
- 2) it was supported by a sales analysis.

Based on the evidence, we find the correct assessment should be \$140,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices. The reduced assessment is ordered because:

- 1) the board views this as an integrated parcel especially since the septic system is on the back lot;
- 2) the survey shows the lot is smaller than the Town's figure;
- 3) it appears additional depreciation should have been given to the building (see Town's revised depreciation); and
- 4) only \$900 should be assessed for the fireplace since it is not a working fireplace.

If the taxes have been paid, the amount paid on the value in excess

of \$140,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert M. Griffin, Trustee; Chairman, Selectmen of Enfield.

Dated: July 16, 1992

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Melanie J. Ekstrom, Deputy Clerk