

Patrick M. and Kathleen M. Hampson

v.

Town of Sandown

Docket No.: 9524-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$148,500 (land \$60,100; buildings \$88,400) on Map 21, Lot 115-01, a 1.64-acre lot with a house (the Property). The Taxpayers 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 Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers carried this burden and proved disproportionately.

The Taxpayers argued the assessment was excessive because:

1) the house is 120 years old and needed renovations, e.g., the bathroom floors were rotted and had holes into the basement, the support beams were

exposed, holes were made in the walls to repair leaking pipes, the ceilings were cracked and falling, and the windows were rotted and needed replacing;

2) the Town's appraiser never entered the house to view the interior condition;

3) a 1989 appraisal estimated a \$126,000 value, and market values have decreased since that time; and

4) in 1990, a similar property was assessed for \$117,300 and appraised for \$125,600 and another comparable, 4.57-acre property was assessed for only \$115,200.

The Town argued the assessment was proper because:

- 1) only one of the Taxpayers' comparables is located in the Town;
- 2) market value does not determine assessed value;
- 3) the Taxpayers never told the Town of the building's condition; and
- 4) the assessment is equitable with similar properties in the Town.

The board's inspector reviewed the assessment-record card and filed a report with the board (copy enclosed). This report concluded the proper assessment should be \$127,600 (land \$60,100; buildings \$67,500). The inspector adjusted the building's physical and functional depreciation to address its age and condition.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$127,600 (land, \$60,100; building, \$67,500). This assessment is ordered because:

- 1) the Taxpayers' appraisal and photographs are supportive of the inspector's report;

2) while desirable to have comparables from the same town as the subject, there is no statute prohibiting use of out-of-town comparables as long as adequate adjustments are made, if warranted; and

3) 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 \$127,600 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

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Patrick M. and Kathleen M. Hampson, Taxpayers; and Chairman, Selectmen of Sandown.

Dated: May 24, 1993

Melanie J. Ekstrom, Deputy Clerk

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