

**Ronald Moskowitz**

**v.**

**Town of Hollis**

**Docket Nos.: 9637-90 and 11320-91 PT**

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessments of \$384,900 (land \$89,300; buildings \$295,600) on Map 47-58, a 2.1-acre lot with a building known as the "Lodge" and \$410,600 (land \$87,200; buildings \$323,400) on Map 47-59, a 2.4-acre lot with a house (the Property). The Taxpayer also owns, but did not appeal, one other lot in the Town. For the reasons stated below, the appeals for abatement are denied.

The Taxpayer has the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayer paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry his burden.

The Taxpayer argued the assessments were excessive because:

(1) three lots were purchased in 1981 for the purpose of constructing a single family residence and an accessory building to the main residence on two

of the lots and the third across the road to be as a buffer;

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(2) the only way to look at the Property is as a whole because no one would consider purchasing the house without the accessory building, the Lodge;

(3) there is no disagreement about the value of the main residence; and

(4) an appraisal report, prepared by Charles Thompson (TP Ex-1), estimates the fair market value of the Property to be \$770,000 inclusive of a \$200,000 value for the Lodge.

The Town argued the assessments were proper because:

(1) the Property is unique and there is no other like it in Town with a main house and an adjacent Lodge;

(2) the Property was assessed as two separate lots because at the time of the revaluation, the Property was not landscaped and their integrated uses were not as apparent;

(3) the quality of construction of the buildings is the best in Town;

(4) the sale of a comparable property on Blood Road for \$1,200,000 in 1991 supports the Taxpayer's assessment;

(5) three to four building permits have been taken out each year for the past several years for very large \$500,000+ homes of 4,000 square feet or more, all on 2 to 3 acre lots; and

(6) the Town's position is that the Property should be assessed as one estate.

#### Board's Rulings

We find the Taxpayer failed to prove the Property's assessments were disproportional.

The Taxpayer's primary argument relative to overassessment is that the "Lodge", due its unique design, superadequacy and accessory nature to the main residence, would not contribute its cost to the market value of the Property in its entirety. While this argument may have merit, the Taxpayer failed to show in a convincing fashion that such superadequacies had been overassessed by the Town and indeed resulted in excessive indication of market value and assessment.

The Taxpayer's appraiser, Mr. Thompson, attempted to measure the superadequacy of the Lodge by estimating what the renovation costs would be to alter the building so that it would be a marketable dwelling on its own. While the board understands this was an exercise to attempt to measure the Lodge's contributory value to the Property as a whole, the board finds the exercise tends to understate the contributory value of the Lodge as an accessory building to the main residence.

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The main residence and Lodge were developed on two separate lots, but, due to the extensive landscaping, ponds, driveways, utilities, and the interdependent nature of the buildings, the use of the two lots are so integrated that it would be highly unlikely that the Property would be marketed as two separate parcels. Therefore, the proper way of viewing the value of this Property is to look at the two lots and the two buildings as one estate. See RSA 75:9. There is no question in the board's mind that if this Property were to be listed for sale it would be marketed as a secluded residential compound with the amenities the two buildings and grounds have to offer. While there may be some superadequacy in the development of the Property based on the present owners specific interests, the board finds that

the majority of the development costs would feasibly be recaptured in the market.

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This conclusion is supported by the Town's evidence of the sale of 73 Blood Road which, while being a different style development, is, nonetheless, of similar quality and in a similar market strata. The sale of the Blood Road property in 1991 for \$1,200,000 needs to be compared to the Town's assessment of the appealed property of \$795,500 in 1991 when the equalization ratio was 100%. The board finds that the difference between the size, style, quality, acreage etc. of the sale and the subject Property of over \$400,000 is reasonable and indicates that the assessment is proportional. Further the Town stated that, while the Taxpayer's Property may have been one of the first properties built in this price range, there have been several new properties built in the past several years in the half million to million dollar price range. This is some indication there is still an active market for this price range despite the general declining market value of properties on a town wide basis.

The board was initially concerned that the Town's assessment of these two lots and buildings as separate estates could have overstated the value of the Property as one estate. However, the board finds that the Town may have also omitted or understated the value certain items such as the extraordinary amount of landscaping and some of the physical components of the buildings as described in the Taxpayer's appraisal. These opposite valuation influences may neutralize each other. "Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellant." Edes v. Boardman, 58 N.H. 580, 588 (1879). See also appeal of Town of Sunapee, 128

N.H. 214, 216 (1985); and Amoskeage Manufacturing Co. v. Manchester, 70 N.H. 200, 205 (1899).

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In summary the board finds, while this Property is definitely unique, there appears to be a market for this quality of property in the Hollis region. Further, the Taxpayer's appraisal was not conclusive or convincing as to the magnitude of the functional obsolescence of the Lodge relative to the Property as a whole. Therefore, the appeal is denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George R. Moore, Esq., Agent for Ronald Moskowitz, Taxpayer; and Chairman, Selectmen of Hollis.

Dated: October 25, 1993

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Valerie B. Lanigan, Clerk