

Barbara F. Spangler

v.

Town of Gilmanton

Docket No. 9748-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$257,465 (land, \$33,265; buildings, \$224,200) on M51, Lot 14, consisting of 18.6 acres and house and \$758 (land only - in current use) on Map 53, Lot 19 consisting of 20.0 acres of land (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 denied.

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 failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

1) similar properties in better condition are assessed lower;

- 2) the home was enlarged in 1955 without concern for historical preservation - the addition doubled the size and rests on a dirt base and crawl space;
- 3) substantial repairs need to be made; and
- 4) the assessment is much higher than the house can be sold for, which a broker has suggested \$225,000.

The Town argued the assessment was proper because:

- 1) 30% normal depreciation was allowed on the house for deferred maintenance and an additional 10% functional depreciation for other problems such as chimney/fireplace repairs, outdated kitchen/baths and water storage system;
 - 2) comparable properties indicate the assessment is well within established values for the Town;
 - 3) the Property is located in a historic district which limits any structural modification to the home to preserve its historic significance and inherent value;
 - 4) the current kitchen was built in 1680 making it one of the oldest structures in Town adding further to the antiquity;
 - 5) the 40 x 30 area (known as the summer house) although having no insulation and limited heat is in overall good condition;
 - 6) no documentation was provided indicating the vacant lot (Map 53, Lot 19) is disproportionate;
 - 7) comparables of vacant lots indicate the assessment is fair and equitable;
- and
- 8) the methodology used was fair and equitable throughout the town.

The board's inspector reviewed the assessment-record card and the

parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This #9748-90, Spangler v. Gilmanton

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report concluded the proper assessment should be \$235,765 (land, \$33,265; buildings, \$202,500). The inspector made the following adjustments to the Town's assessment and added extra physical depreciation to the main building. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. In this case, the board placed no weight on the inspector's report.

Board's Rulings

We find the Taxpayer failed to prove the Property's assessment was disproportional for the following reasons:

1) The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

2) The Town submitted assessment cards that indicated consistent assessment methodology. Consistent analysis and methodology is some evidence of proportionality; see Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

3) The Town made adequate adjustments to account for the Property's

physical depreciation.

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4) The 1983 "estate" value of \$135,000 was not probative evidence of the fair market value because the Property was valued for estate purposes and because the market has changed so dramatically from 1983 to 1990.

5) The \$225,000 value suggested by a broker was not probative evidence because the Taxpayer submitted no documentation that would allow the board to review the value conclusion. Further, the Taxpayer did not even indicate the date of the opinion.

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 Barbara F. Spangler, taxpayers; and the Chairman, Selectmen of Gilmanton.

Valerie B. Lanigan, Clerk

Date: July 15, 1993

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