

Pillsbury Funeral Homes, Inc./Thomas I. Pillsbury, Jr.

v.

Town of Lisbon

Docket No.: 10928-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$177,900 (land \$18,450; building \$159,450) on Map 4, Lot 35 (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the Property was listed for sale for \$143,000 on August 15, 1990;
- 2) a March, 1989 appraisal estimated a \$141,000 to \$144,000 market value range; and
- 3) the assessment should be reduced by 30 to 40%.

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The Town argued the assessment was proper because three comparable properties, after adjustments for size, supported the Property's assessment.

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 report concluded the proper assessment should be \$149,200.

The inspector adjusted the buildings' physical and functional depreciation to address their age and condition. 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 did not rely on the inspector's report.

Board Findings

Based on the evidence, the board finds the Taxpayer did not carry its burden of proof. First, the board notes that while the Property was assessed at \$177,900, the equalized value was only \$145,820. The equalization value is calculated by dividing the assessment by 1.22, which was the equalization ratio determined by the department of revenue administration to reflect how the Town's assessments compare to market value.

The Taxpayer's position was mainly premised on its appraisal and its listing of the Property. The August, 1990, \$143,000 listing was consistent with the \$145,820 equalized value. The appraiser followed up his 1989 appraisal with a June, 1990 letter that indicated the Property was worth between \$141,000 and \$144,000. Again, this is in line with the equalized

value. Additionally, the board had questions about the appraisal.

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Specifically, the board questions the appraiser's determination of the Property's highest and best use, which the appraiser indicated would be as a multi-unit residential building. However, given the Property's present use and improvements, especially the very large storage building in the back of the lot, the board wonders whether multi-unit residential use is the highest and best use, or rather, whether a commercial use would be the highest and best use. Furthermore, the board questions whether the appraiser sufficiently valued the large storage building in his comparable-sales analysis. In that analysis, the appraiser attributed value to the attached garage and the storage value, but that value was significantly less than the extra-building value attributed by the Town.

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

Ignatius MacLellan, Esq., 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 Pillsbury Funeral Homes, Inc./Thomas I. Pillsbury, Jr., Taxpayer; and Chairman, Selectmen of Lisbon.

Dated: January 21, 1994

Melanie J. Ekstrom, Deputy Clerk

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