

William T. Loomis

v.

Town of Plymouth

Docket No.: 10993-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$103,300 (land \$25,500; building \$77,800) on a .34-acre lot with a building (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 the Property is located in the "Civic" zone and comparable lots in this area were assessed lower.

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The Town argued the assessment was proper because:

- 1) three of the Taxpayer's comparables were reassigned by the Town from single-family residential to Civic\Institutional, however, the change was not reflected until April 1, 1991;
- 2) the Taxpayer's comparables were located in a residential community on Cummings Street; the Taxpayer's Property is on Langdon Street and is surrounded by Plymouth State College or Catholic Church property and was redefined on March 7, 1991;
- 3) Lots 20-18-2 and 20-18-5 illustrated the consistency of value attributed to land with similar utility in the "Civic" zone and in proximity to the Taxpayer's Property; and
- 4) the Taxpayer's assessment was consistent with other properties in the same zone.

The board's inspector reviewed the assessment-record card, reviewed 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 assessment was proper. 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.

Board Findings

The board finds the Taxpayer failed to prove his Property's assessment was disproportional. We also find the Town supported the

Property's assessment.

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The Taxpayer submitted comparable assessments of properties that, prior to March 7, 1991, were in a single-family residential zone. The Taxpayer's Property is in a zone termed "Civic" that allows for many alternative uses of the Property, including student housing. These additional legal uses support a higher land value than property in a residential zone.

The Town voted a zoning change on March 7, 1991 that placed the comparable properties in the "Civic" zone. The Town subsequently revised the assessments on the comparable properties consistent with the Taxpayer's Property.

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.

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to William T. Loomis, Taxpayer; and Chairman, Selectmen of Plymouth.

Dated: January 21, 1994

Melanie J. Ekstrom, Deputy Clerk