

**N. Anthony Jackson**

**v.**

**Town of Exeter**

**Docket No.: 11151-91PT**

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessments of:

\$113,500 (land \$28,800; buildings \$84,700) on "Lot 12", a .08-acre lot with a single family home (3 Maple Street);

\$105,300 (land \$18,600; buildings \$86,700) on "Lot 2", a .04-acre lot with a duplex (4 Maple Street);

\$198,400 (land \$37,800; buildings \$160,600) on "Lot 10", a .14-acre lot with a four-apartment building (9 Maple Street); and

\$153,800 (land \$43,200; buildings \$110,600) on "Lot 1", a .17-acre lot with a three-apartment building (13 Brown's Court) (the Properties).

The Taxpayer also owns but did not appeal a seven single and two-room apartment building located at 2 Maple Street assessed for \$142,000. For the reasons stated below, the appeal for abatements is 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 and prove disproportionality.

The Taxpayer argued the assessment on **Lot 12 (3 Maple Street)** was excessive because:

- (1) it was purchased in 1986 for \$126,000 - the purchase price was excessive and paid under duress and included the buy back of the right-of-way privileges over 7 Maple Street which has 15 units;
- (2) there is an easement over the northerly boundary for parking for the abutters;
- (3) 1990 gross rent was \$10,200 (1991 projected \$9,350) - a rule of thumb used is the purchase price should not exceed six times the gross rent; and
- (4) the fair market value as of April 1, 1991 does not exceed \$75,000.

The Town argued the assessment on **Lot 12** was proper because:

- (1) it was actually purchased in June of 1987 for \$125,000;
- (2) the Taxpayer could have refused to buy the property if he felt the price was too high and he could have sold his abutting property;
- (3) in August, 1992, the property was on the market at an asking price of \$105,000;
- (4) comparable sales support the assessment;
- (5) the Town did not take into consideration the value of the right-of-way or easement because for this property, they did not affect the property value; and
- (6) the property is equitably assessed.

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The Taxpayer argued the assessment on **Lot 2 (4 Maple Street)** was excessive because:

- (1) it is a duplex, has no room on two sides to maintain or paint, has no sidewalk in the front of the house, no yard, and parking only for two cars;
- (2) 1990 gross rent was \$12,400 (1991 projected \$12,650) - a rule of thumb used is the purchase price should not exceed six times the gross rent; and
- (3) it had a value of approximately \$75,000 in April, 1991.

The Town argued the assessment on **Lot 2** was proper because:

- (1) the house was assessed by the exterior square footage and then factored by 1.05% as were all two unit buildings during the 1988 revaluation;
- (2) comparing the property to sales of other 2-unit buildings indicates it is equitably assessed at a price per unit of \$52,650;
- (3) the Town assigned a \$60,000 base price per buildable lot for the neighborhood and all multi-family homes were valued as single lot entities; and
- (4) the assessment is fair and proportionate.

The Taxpayer argued the assessment on **Lot 10 (9 Maple Street)** was excessive because:

- (1) it was purchased under duress (needed additional parking) in an inflated market in June, 1987 for \$205,000;

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(2) 1990 gross rent was \$20,126 (1991 projected \$21,000) - a rule of thumb used is the purchase price should not exceed six times the gross rent; and

(3) it had a value of approximately \$125,000 on April 1, 1991.

The Town argued the assessment on **Lot 10** was proper because:

(1) it was purchased for \$205,000, ten months prior to the revaluation;

(2) comparing the property to sales of other 4-unit buildings indicates it is equitably assessed at a price per unit of \$49,300;

(3) the Town assigned a \$60,000 base price per buildable lot for the neighborhood and all multi-family homes were valued as single lot entities; and

(4) the assessment is proper.

The Taxpayer argued the assessment on **Lot 1 (13 Brown's Court)** was excessive because:

(1) it was purchased in March, 1986 for \$132,000;

(2) 1990 gross rent was \$16,136 (1991 projected \$17,700) - a rule of thumb used is the purchase price should not exceed six times the gross rent; and

(3) it had a value of approximately \$100,000 on April 1, 1991.

The Town argued the assessment on **Lot 1** was proper because:

(1) it was purchased in 1986 for \$132,000, appreciation in the Seacoast Region indicated approximately .5% per month which indicates a value a of the date of revaluation (1988) of \$148,500;

(2) it is on a dead end road next to Phillips Exeter Academy which has a higher influence on value;

(3) comparing the property to sales of other 3-unit buildings indicates it is equitably assessed at a price per unit of \$51,000;

(4) the Town assigned a \$60,000 base price per buildable lot for the neighborhood and all multi-family homes were valued as single lot entities; and

(5) the assessment is proper.

The board's inspector reviewed the property-assessment cards, 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 assessments were 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. In this case, the board did not rely on the inspector's report.

#### Board's Rulings

We find the Taxpayer failed to prove the Properties' assessments were disproportional. Neither party challenged the department of revenue administration's equalization ratio of 120% for the 1991 tax year for the Town of Exeter. The Properties equalized values were:

Lot 12-	\$94,600	(\$113,500 ÷ 1.20)
Lot 2	- \$87,750	(\$105,300 ÷ 1.20)
Lot 10-	\$165,500	(\$198,400 ÷ 1.20)
Lot 1	- \$128,200	(\$153,800 ÷ 1.20)

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The Taxpayer did not present any credible evidence of the Properties' fair market value. To carry this burden, the Taxpayer should have made a showing of the Properties' fair market value. This value would then have been compared to the Properties' assessments 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. The Taxpayer stated that the 1986 and 1987 purchases were all made under duress but offered no market evidence of the Properties' fair market value as of April 1, 1991. Further, the Town stated that Lot 12 was on the market in 1992 at an asking price of \$105,000. The 1991 equalized value was \$94,600.

The Town submitted evidence of sales of properties to support the assessments on the Properties. Further, the testimony indicated that property on 2 Maple street owned by the Taxpayer was not appealed. In determining whether the assessments have resulted in the Taxpayer paying an unfair share of taxes, the board must look at the Taxpayer's entire estate. The board finds that 2 Maple Street may have been underassessed based on the testimony that the Town assessed the property as a four unit building and the Taxpayer's testimony that the property was a seven single and two room apartment building.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party

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establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law.

Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

\_\_\_\_\_  
George Twigg, III, Chairman

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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 N. Anthony Jackson, Taxpayer; and Chairman, Selectmen of Exeter.

Dated:

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Valerie B. Lanigan, Clerk