

Edna Paradis

v.

Town of Goffstown

Docket No.: 11160-91 PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$42,000 on a vacant, 18,075 square-foot lot (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 granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the lot is nonbuildable because of its size and lack of Town water and sewer;
- (2) an appraiser estimated a \$7,500 value as of August, 1992;

(3) the assessment was high compared to similar, neighboring lots; and

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(4) the assessment should be \$8,000.

The Town agreed that the assessment should be abated. The Town offered to abate the assessment to \$9,200 (\$7,500 appraised value x 122% equalization ratio for 1991) to address the Taxpayer's concerns, but the Taxpayer was unwilling to settle for this amount. The Town argued the adjusted assessment was proper because the equalization ratio adjusted the Taxpayer's appraisal estimate to be consistent with the general level of assessment in 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 report concluded the Town's adjusted 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. In this case, the board gave the inspector's report no weight.

Board's Rulings

Based on the evidence, the board finds the fair market value of the Property to be \$7,500 and the correct assessment to be \$9,200 (\$7,500 x 1.22).

This assessment is ordered because the board finds the appraiser's opinion of fair market value to be the most reliable evidence. The assessments of other properties submitted by the Taxpayer, without detailed information and supporting assessment record cards, were of little probative value and based

on the appraiser's opinion of value, these properties may in fact be underassessed. The underassessment of other properties does not prove the

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overassessment of the Taxpayer's Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayer's assessment because of underassessment on other properties would be analogous to a weights and measure inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

If the taxes have been paid, the amount paid on the value in excess of \$9,200 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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

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 Joanne Martin-Walsh, Esq., Attorney for Edna Paradis, Taxpayer; and Chairman, Selectmen of Goffstown.

Dated: January 4, 1994

Lynn M. Wheeler, Deputy Clerk

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