

John V. Werme

v.

Town of Plymouth

Docket No.: 11163-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$225,484 (land \$81,784; buildings \$143,700) on an 18-acre lot with a house (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 Town's 4.0, land-condition factor resulted in the Property's land assessment being twice that of neighboring properties;

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- (2) there was an error on the assessment-record card, i.e., the Town overassessed the Property by 317 square feet;
- (3) the Town's 20% depreciation factor on the building was inadequate given the building's incomplete condition on the assessment date;
- (4) the Town's 10% functional depreciation to address the building having only one bedroom is inadequate; and
- (5) the \$69.68, square-foot base rate is excessive compared to similar properties.

The Town argued the assessment was proper because:

- (1) the Taxpayer misled the Town, stating the improvements cost under \$150,000 when in fact they cost over \$170,000;
- (2) the Property is superior to any comparable and has a 1,200 foot, year-round driveway;
- (3) the Property has an excellent view; and
- (4) vacant lot sales with inferior views support the Property's land 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 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.

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Board's Rulings

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

The board finds the Taxpayer's arguments to be without any merit or unsubstantiated for the following reasons:

(1) the photograph submitted by the Town shows the excellent view from the Property, supporting the site assessment;

(2) the Taxpayer submitted no evidence that the site value exceeded market value;

(3) 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.

(4) the Taxpayer claims 3,096 square-feet of living area; yet the Town, in the corrected assessment, lists the living area as only 2,766 square-feet;

(5) no interior photographs showing the unfinished interior were submitted, no detailed description of the unfinished areas was submitted, nor was any estimate of the cost to finish the dwelling submitted;

(6) no evidence was submitted as to the actual cost of construction either in

total or on a square-foot basis; and

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(7) no photographs or other descriptive evidence was submitted by the Taxpayer of the comparable properties (other than one assessment-record card) to support the contention of inequitable assessments.

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 Christopher J. Kelly, PTRC, Agent for John V. Werme, Taxpayer; and Chairman, Selectmen of Plymouth.

Dated: January 20, 1994

Lynn M. Wheeler, Deputy Clerk

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