

Lawrence J. Dupont

v.

Town of Belmont

Docket No.: 11350-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$189,400 (land, \$41,200; building, \$148,200) consisting of 1.07 acres and a house (the Property). The Taxpayer owns, but did not appeal, several other properties in Town. 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 to the Town's recommended assessment.

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) on March 30, 1990 the building was burned down;
- 2) in July, 1991 the building was not complete, i.e., unfinished rooms,

incomplete heating system;

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- 3) it was assessed for the entire 1991 tax year;
- 4) four realtors and a licensed appraiser and the Laconia Savings Bank agreed the Property was overassessed; and
- 5) a May, 1991 appraisal indicated a fair market value of \$129,000.

The Town argued the assessment was proper because:

- 1) the Property's original assessment was reduced to \$189,000;
- 2) the appraiser's argument that values have dropped since the 1989 revaluation is not a valid reason to lower an assessment;
- 3) using the existing pricing manual, the Town would agree to further adjust the 1991 assessment to \$168,200 (land, \$41,200; building, \$127,000) and upon completion increase the assessment to \$189,400.

The board's inspector reviewed the assessment-record card, 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. 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 no weight to the inspector's report.

Board's Rulings

Based on the evidence, we find the Town's recommended assessment of \$168,200 is reasonable for the following reasons:

The Taxpayer submitted an appraisal report dated May 3, 1991, which estimated a fair market value of \$129,000. Neither party challenged the

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Department of Revenue Administration's ratio of 1.26 for the 1991 tax year. The ratio indicates that all real estate was assessed 26% above market value in 1991. The Taxpayer's estimate of value equates to an equalized value of \$162,540 ($\$129,000 \times 1.26$) and the Town's revised assessment is \$168,200. As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the Property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

If the taxes have been paid, the amount paid on the value in excess of \$168,200 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

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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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been
mailed this date, postage prepaid, to Lawrence J. Dupont, Taxpayer; and the
Chairman, Selectmen of Belmont.

Dated: December 8, 1993

Melanie J. Ekstrom, Deputy Clerk