

8-10 Commercial Street Holdings Limited Liability Company
f/k/a Commercial Street Trust

v.

Town of Hudson

Docket No.: 11386-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$1,002,000 (land \$141,600; buildings \$860,400) on a 2.32-acre lot with an office building (the Property). 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 its burden.

The Taxpayer argued the assessment was excessive because:

- (1) an opinion of value by the income approach estimates a value as of June 1990 at \$765,000;
- (2) the amount of office area versus finished first floor area as listed on the property record card was incorrect; and
- (3) several comparable sales not used by the Town during the revaluation indicate a lower assessment.

The Town recommended the assessment be revised to \$895,700 because a review of the office space determined it to be of a lesser quality than originally assessed.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$895,700 (land \$141,600; building \$754,100). This assessment is ordered because:

- 1) the Town's adjustment for the lower quality office space is reasonable based on the testimony of both parties; and
- 2) the sales submitted by the Taxpayer supports the finding of a lower assessment.

If the taxes have been paid, the amount paid on the value in excess of \$895,700 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.

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 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

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to 8-10 Commercial Street Holdings Limited Liability Company, f/k/a Commercial Street Trust, Taxpayer; and Chairman, Selectmen of Hudson.

Dated: November 17, 1994

Valerie B. Lanigan, Clerk

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