

**Angela Ropi and Ralph Pisari**

**v.**

**Town of Candia**

**Docket No.: 11422-91PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$88,500 (land, \$51,150; building, \$37,350) on a house with 2.072-acre lot (the Property). The Town recommended adjusting the assessment to \$77,950 (land, \$40,600; building, \$37,350) to reflect certain revisions to the assessment card. The Taxpayers 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 Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

1) in May, 1991 the house burned down and therefore, the Town should have abated taxes on the house from May 26, 1991 to March 30, 1992;

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- 2) even if the board does not accept argument one, the house was found to have substantial timber rot and insect infestation, warranting demolition rather than renovation;
- 3) an April 1, 1991 appraisal estimated the fair market value to be \$34,000; and
- 4) it was not proportionate compared to similar land values in the neighborhood.

The Town argued the adjusted assessment was proportional and consistent with the Town's methodology and comparables.

#### Board's Findings

Based on the evidence, the board finds the proper assessment should be \$64,730 (land, \$40,600; building, \$24,130). This assessment is ordered because the board concluded additional physical depreciation was required to reflect the building's condition as of April 1, 1991. The board did not accept the Taxpayers' assertion that the building had no value as of April 1, 1991. The Taxpayers' evidence was inconclusive for the board to reach such a conclusion. Obviously, the Taxpayers' plans to renovate was not economically justified, but that does not mean the building had no value. Concerning the Taxpayers' appraisal, it assumed, without having inspected the Property, that the building had no value. Because the appraiser did not inspect the Property, the board cannot accept the assumption.

The board rejects the Taxpayers' argument that taxes should have been prorated in 1991 because the building burned down. Under RSA 76:2, the

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Property tax year is April 1 - March 31, and all property is assessed as of April 1, regardless of what happens later that tax year. As of April 1, the building existed and thus was taxable for the tax year. Although the board is sympathetic with the Taxpayers' argument, the board is without jurisdiction to order an abatement since the statute sets the April 1 date as the inventory and assessment date. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's powers entirely statutory).

The Taxpayers' land appraisal (\$34,000) and the Town's equalized land assessment (\$39,040) were close in range. Additionally, the Town demonstrated a consistent methodology was used throughout the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982). Given the closeness of the two values and the Town's evidence of consistent methodology, the board finds the adjusted land assessment is appropriate.

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

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Angela Ropi and Ralph Pisari, Taxpayers; and Chairman, Selectmen of Candia.

Dated: November 29, 1993

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Melanie J. Ekstrom, Deputy Clerk

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