

E. Joanne Wilkens

v.

Town of Gilmanton

Docket No.: 11508-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$109,600 (land \$29,600; building \$80,000) on 4.870-acre lot with a house (the Property). The Town, however, recommended reducing the assessment to \$99,000 (land \$29,600; building \$69,400). 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 adjusted 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) the Property was purchased in June, 1991 for \$85,000, which most accurately reflects the Property's real value; and

2) a September 10, 1992 appraisal estimated a \$75,000 fair market value.

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The Town argued the assessment should be adjusted by an additional 10% functional depreciation for bathroom location and low ceilings, resulting in a revised \$99,000 assessment.

The Town argued the revised assessment was proper because comparing the 1991 sale with the 1991 equalized assessment indicates the assessment was within the established guidelines and parameters.

Board Findings

Based on the evidence, the board finds the Taxpayer did not prove the adjusted assessment was disproportional. Below are the valuation figures presented to the board. In reviewing these figures, the parties must be aware that because the market has been changing rapidly, it is essential to make time adjustments.

Taxpayer's time-adjusted, June 1991 purchase price	\$87,550
(\$85,000 x 1.03 = \$87,550)	

Taxpayer's time-adjusted, September 1992 appraisal	\$93,000
(\$75,000 x 1.24 = \$93,000)	

(NOTE: Time adjusted to April 1, 1991, using change in the department of revenue administration's equalization ratio (1990 = .90; 1991 = 1.11; 1992 = 1.26) then arriving at monthly rate.)

1991 Equalized Assessment	\$89,200
(\$99,000 ÷ 1.11 = \$89,200)	

The above calculations show that the assessment was proportional, and thus no further adjustments are warranted.

If the taxes have been paid, the amount paid on the value in excess

of \$99,000 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

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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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to E. Joanne Wilkens, Taxpayer; and Chairman, Selectmen of Gilmanton.

Dated: November 29, 1993

Melanie J. Ekstrom, Deputy Clerk