

Alfred Pepper

v.

Town of Plaistow

Docket No.: 12335-91 PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$89,750 on a condominium unit in Westview Park Condominiums (the Property). The Taxpayer failed to appear, but was granted leave consistent with our Rule, TAX 202.06. This decision is based on the evidence presented to the board. Further, the board takes official notice of 16 other related cases scheduled for hearing on the same date. 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 this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) since 1988, the common grounds were backed up due to a substandard septic system which subsequently failed completely and was ordered to be replaced;
and

Page 2

Pepper v. Town of Plaistow

Docket No.: 12335-91PT

(2) an April, 1991 appraisal estimated the fair market value to be \$55,000.

The Town stated that based on the appraisal submitted by the Taxpayer, the assessed value should be reduced to \$55,000.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$55,000.

This assessment is ordered because the board finds the evidence submitted by the Taxpayer in this case and related cases relative to the failed septic system and the market as of April 1, 1991, supports an adjustment to \$55,000 as suggested by the Town.

If the taxes have been paid, the amount paid on the value in excess of \$55,000 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 ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

Page 3

Pepper v. Town of Plaistow

Docket No.: 12335-91PT

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Alfred Pepper, Taxpayer; and Chairman, Selectmen of Plaistow.

Dated:

0008

Valerie B. Lanigan, Clerk