

Rembert W. Patrick, Jr.

v.

Town of Charlestown

Docket No.: 12457-91 PT

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$17,350 (land \$8,350; building \$9,000) on a .03-acre lot with a house (the Property). 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.

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 his burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the building has no heating system or hot water, the foundation is sagging, the floors are soft wood, and there is only a 10-gallon septic tank and a well point;

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- 2) the building's front door is only 20 feet from the highway line on Route 12, and the back door is only 30 feet from the center of the railroad;
- 3) on a daily basis, 4,200 cars pass on Route 12 and three to six trains pass on the railroad;
- 4) the Property was purchased in 1983 for only \$6,000;
- 5) a realtor estimated a \$7,500 selling price in 1990;
- 6) there were errors on the assessment-record card, i.e., there is no well, deck, porch, or attic stairs, and the Town's appraiser never inspected the building's interior;
- 7) a \$6,000 offer to purchase was made in 1990, and a \$5,000 offer was made in 1991, but the offers were withdrawn because of the Property's taxes, and in 1992, a \$7,500 offer was made but the lender would only mortgage the Property for \$3,200 because the Property had only a \$4,000 value; and
- 8) the assessment should be \$6,000.

The Town argued the assessment was proper because:

- 1) the Taxpayer presented no proof of the offers to purchase;
- 2) the Taxpayer has been rude and insulting, and the 1988 abatement to the present assessment was a result of a neighbor's intervention because the Taxpayer's attitude prevented any negotiations;
- 3) the Property had been inspected on six occasions -- five exterior inspections and one interior inspection; and
- 4) the assessment did not reflect the severe decline in the market values from 1989 to present.

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Board's Rulings

Based on the evidence, the board finds the proper assessment to be \$13,900 (land \$5,250, buildings \$8,650). This assessment is ordered because:

- 1) the site value of \$10,000 should be reduced by a size factor of .5 and a economic factor of .5 due to its very limited size and utility, narrow configuration and proximity to the railroad and highway;
- 2) the Town's utility value should be reduced by 75% because the wellpoint and questionable septic system have limited contributory value if the Property were sold;
- 3) replacement cost of \$1,100 for the 21 square foot (3" x 7") entry on the rear of the house is grossly excessive based on the photographs submitted by the Taxpayer; and
- 4) reducing the replacement cost for that entry to \$300 and applying the depreciation as existing on the assessment-record card results in a proper assessment of buildings of \$8,650.

No further abatement is warranted because:

- 1) the offers for sale as presented by the Taxpayer are not conclusive evidence of market value;
- 2) the Property provides housing comparable to a mobile home and would likely compete on the market with mobile home sales on their own lots;
- 3) despite the physical condition and limited utility of the Property, property values in general have increased from 1983 to 1991 and thus the Property is worth more than the 1983 purchase price of \$6,000 in the 1991

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market; and

4) despite the limited utility of the Property's lot, its general location and neighborhood amongst rural properties with a view of the Connecticut River is a positive factor that must be considered when valuing the Property. See Paras v. City of Portsmouth, 115 N.H. 63, 66-67 (1975) (all relevant factors to valuing property should be considered).

If the taxes have been paid, the amount paid on the value in excess of \$13,900 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 and board rule TAX 203.05, the Town shall also refund any overpayment for 1992, and 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.

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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Paul B. Franklin, Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been

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mailed this date, postage prepaid, to Rembert W. Patrick, Jr., Taxpayer; and  
Chairman, Selectmen of Charlestown.

Dated: November 19, 1993

0008/0004

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Melanie J. Ekstrom, Deputy Clerk