

David W. Laughton and Marcia M. Tarr

v.

Town of Auburn

Docket No.: 12461-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$250,600 (land, \$61,300; building, \$189,300) on 1.13 acres with building (the Property). 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) it was disproportional when compared to the assessments on other nearby homes;
- 2) the Property was purchased in February, 1991, for \$221,200;

3) similar properties in size and quality were assessed lower;

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4) market values were lower; and

5) a bank appraisal estimated the market value as of February, 1991, to be \$225,000.

The Town argued the assessment was proper because:

- 1) the Taxpayers' comparables differ because the comparables were undeveloped lots, and the assessments did not include site work, electrical hook-up, driveway, well and septic utilities;
- 2) the Taxpayers' purchase price did not meet the criteria of a valid sale (developer was under some duress to sell);
- 3) using the Taxpayers' comparables and the market analysis, the Taxpayers' assessment falls within a 10% range; and
- 4) it was fair, reasonable and equitable.

#### **Board's Findings**

Based on the evidence, the board finds the proper assessment to be \$227,850. This conclusion is based on the following.

- 1) The Town's market analysis indicated the Property was worth \$245,000. When this value is compared to \$269,460 equalized value ( $\$250,600 \div .93$ ), there is good evidence that the assessment was excessive. We accept the Town's market analysis because the Town's adjustments to the comparables appear more appropriate than the Taxpayers' appraiser's adjustments.

2) The Taxpayers' comparison of their developed lot to undeveloped lots did not account for the value added in the development process of a site.

3) The Town reasonably rebutted the Taxpayers' appraisal by making adjustments for the superior quality of the home and more appropriate price per-square foot for the size difference of the comparables compared to the subject Property.

4) The board finds that the sale to the Taxpayers in February, 1991, for \$221,200 did not meet all the qualifications of an arms length transaction. Both the Town and the Taxpayers stated the developer/builder was under some financial pressure to sell, and thus, the sale was not conclusive evidence of the Property's market value. (The sale price of the subject property is one of the "best indicators of the property's value" unless it is shown not to be an arms length transaction.)

If the taxes have been paid, the amount paid on the value in excess of \$227,850 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.

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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Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to David W. Laughton and Marcia M. Tarr, Taxpayers; and the Chairman, Selectmen of Auburn.

Dated: February 11, 1994

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Melanie J. Ekstrom, Deputy Clerk