

**McQuade Realty Trust**

**v.**

**Town of Hollis**

**Docket No.: 12903-92PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 adjusted assessment of \$218,850 (land \$71,150; buildings \$147,700) on a 2.03-acre lot with a house (the Property). 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 its burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) comparable sales of houses and unimproved lots indicate the Property is overassessed and the proper market value is between \$185,000 and \$190,000;
- (2) the Town's comparables are all in better locations than the Property;
- (3) Federal Hill Rd., while it does have some property similar to the Property, is generally comprised of more modest homes; and

(4) the Property was purchased in 1991 for \$194,000 and yet was assessed a year following for \$223,250.

The Town argued the assessment was proper because:

(1) Taxpayer's comparable #1 was a resale by a bank and thus not an arms'-length sale;

(2) the Town's comparables are all class 4.5 houses as is the Property, whereas two of the Taxpayer's comparables are class 4 houses;

(3) the Federal Hill Area had a base land value of \$80,000 whereas some of the Taxpayer's comparables had a base land value of \$70,000; and

(4) while the Taxpayer's neighborhood is not a secluded subdivision, the construction that has occurred in the area has been of good quality.

### **Board's Rulings**

Subsequent to the hearing, the board requested its inspector to review the Property's assessment-record cards, the record and file a report with the board. The board's inspector filed a report on January 23, 1996 and the parties were provided a period of time in which to comment on the report. The report concluded an assessment range of \$185,200 to \$249,700 with the most comparable assessed value being \$209,300. The board has reviewed the report and treats the report as it would other evidence giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. In this case the board accepts the inspector's recommendation.

Based on the evidence, we find the proper assessment to be \$209,300. The board finds the best evidence as to market value is contained in Mr. Bartlett's report

in which he analyzed the comparable properties submitted by Page 3  
McQuade Realty Trust v. Town of Hollis  
Docket No.: 12903-92PT

the parties and made adjustments to them to make them comparable to the Property. The board also notes that the Property was purchased by the Taxpayer in December 1991 for \$194,000. This sale when equalized by the Town's 1.08 ratio also supports the assessment conclusion of \$209,300 ( $\$194,000 \times 1.08 = \$209,520$ ). See Appeal of Lake Shore Estates, 130 N.H. 504 (1988) (Sale of the subject property, if there is no evidence submitted to disqualify it as an arms'-length transfer, and its generally conforming to other market data, should be given considerable weight in arriving at market value.)

Further, while the Town graded the Taxpayers' Property at 4.5, the board's inspector found the house to be more similar to those graded a 4. Mr. Bartlett did note and make adjustments for the post-and-beam construction of the Property versus the frame construction of the comparables; however, Mr. Bartlett felt that the grade despite the post-and-beam construction was more comparable to grade 4 classification. Also the board noted from the photographs submitted by the parties and Mr. Bartlett, that the small and unbalanced fenestration diminish the Property's appeal.

If the taxes have been paid, the amount paid on the value in excess of \$209,300 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, unless the Town has undergone a general reassessment, the Town shall also refund any overpayment for 1993, 1994 and 1995. 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.

Page 4

McQuade Realty Trust v. Town of Hollis

Docket No.: 12903-92PT

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date

below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

\_\_\_\_\_  
George Twigg, III, Chairman

\_\_\_\_\_  
Paul B. Franklin, Member

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William J. DeSelle Jr., Agent for McQuade Realty Trust, Taxpayer; and Chairman, Selectmen of Hollis.

Dated: March 28, 1996

\_\_\_\_\_  
Valerie B. Lanigan, Clerk

0006