

Patricia Heald

v.

Town of Deerfield

Docket No.: 13934-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$205,100 (land \$74,300; buildings \$130,800) on a 3.10-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 her burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) a September 1993 appraisal estimated a \$123,000 value; and
- (2) comparable properties had lower assessments.

The Town failed to submit a brief supporting the Property's assessment

and was finally defaulted.
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Board's Rulings

Based on the evidence, the board finds the proper assessment to be \$187,700 which is based upon a market value finding of \$138,000 and the Town's general level of assessment being the Department of Revenue Administration's equalization ratio of 136%.

The board arrived at its conclusion of market value of \$138,000 by reviewing and comparing the property assessment-record card and the appraisal submitted by the Taxpayer and giving them equal weight with adjustment and corrections where the board found errors or conflicting evidence.

First, based on the Taxpayer's evidence, the board concludes the gambrel roof portion of the dwelling is more appropriately calculated as a $1\frac{3}{4}$ story rather than a 2 story. Further the one-story portion apparently has no basement area. Revising the property assessment-record card for these two errors reduces the assessment by approximately \$12,000 to \$193,100. This assessment equalized provides an indicated market value of \$142,000 ($\$193,100 \div 1.36$).

Secondly, the board finds the Taxpayer's appraisal did not adequately adjust in both the market and cost approaches for the contributory value of the garage and the separate barn. Based on the garage listing on the property assessment-record card, the board concludes the garage has full basement with car storage, a main floor with car storage and a third floor with a loft storage area. The board finds the garage and the barn are more reasonably valued by the Town's approach on the assessment-record card. The garage and barn contribute more than the \$7,000 to \$8,000 estimated in the Taxpayer's

appraisal. Adjusting the Taxpayer's appraisal by approximately \$11,000 for

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the differential in value for the garage and barn provides an indicated market value of \$134,000.

As stated earlier the board gives equal weight to these two revisions and finds the market value to be \$138,000 and the resulting assessment to be \$187,700.

Lastly the Taxpayer submitted three comparables in support of their argument of overassessment. However the board placed little weight on these comparables because the comparables were of varying ages and square-footage and the Taxpayer did not indicate what the appropriate adjustments were for the comparables to make them similar to the Property.

If the taxes have been paid, the amount paid on the value in excess of \$187,700 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 1994. 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.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration 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 reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration 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.

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Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a reconsideration motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the reconsideration motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Certification

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

Dated: September 25, 1995

Lynn M. Wheeler, Deputy Clerk

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