

Susan M. Cormier

v.

Town of Marlow

Docket No.: 14562-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 adjusted assessment of \$40,550 (land, \$7,800; buildings, \$32,750) on property consisting of 4.1 acres and geodesic dome with unfinished additions (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 this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the main building is a geodesic dome, which has limited marketability and certain inherent problems such as roofing problems and unusable floor and wall space;

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- 2) the property-assessment card includes several errors;
- 3) the addition was overassessed given its condition, costs (\$10,000) and as compared to an abutting garage assessment;
- 4) the shed was overassessed compared to another detached shed;
- 5) assessments for other properties were approximately one-half the asking price;
- 6) a realtor estimated a \$30,000 value (undated), which was consistent with other estimates; and
- 7) a proper assessment would be \$35,000 based on a market value estimate.

The Town argued the assessment was proper because:

- 1) the Property was viewed with the Taxpayer and the building size corrected and septic value deducted;
- 2) it is consistent with the 1984 revaluation;
- 3) the Taxpayer's other arguments have no relevancy;
- 4) the department of revenue administration (DRA) equalized ratio was 63%;
- 5) the Taxpayer's comparables are no good due to the uniqueness of the structure; and
- 6) the Taxpayer should have hired an appraiser.

BOARD FINDINGS

Based on the evidence the board finds the proper assessment should be \$24,650 (land, \$7,800; buildings, \$16,850). This assessment is ordered because the evidence showed:

- 1) the Town employed incorrect assessment methodology;

2) the Town did not adequately consider the physical and functional problems with the Property; and

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3) the limited market evidence submitted by the Taxpayer provides support for the lower assessment resulting from correcting the Town's methodology and depreciation.

First, the Town assessed the geodesic dome and the addition as if they were two separate buildings resulting in a higher replacement cost than appropriate for the structure as a whole. The board realizes this occurred most likely because the addition was at a different state of completion than the geodesic dome. However, the two portions should be viewed and valued as a unit because that is how the market would react to the structure. The board finds the dwelling should be assessed as a 1,420 square-foot unfinished grade 2.5 wood frame dwelling with only a kitchen sink, no central heating and a basement area only under the addition.

Second, the board finds the replacement cost should be depreciated 15% for its physical condition as indicated in the photographs of the Taxpayer's description and -55% for the lack of any interior finish in the addition, the limited finish in the geodesic dome, the lack of central heating and the geodesic dome design which limits its functional utility. The board's depreciated replacement cost includes the 1.1 local multiplier used on all properties within the Town. Further, the board finds the 16' x 16' shed does not contribute in excess of \$5,000 to market value as assessed by the Town. Rather the board finds that an estimated assessed value of \$1,000 is

appropriate for the shed.

The resulting assessment of \$24,650, when equalized by the Town's 1993 equalization ratio of 63%, provides an indicated market value of \$39,150. This indicated market value is supported by the Taxpayer's purchase of the Property for \$28,000 in 1986 and the subsequent unfinished improvements. Finally, while

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normally the board places little weight on unsupported opinions of value, the realtor's opinion of value in the mid to upper \$30,000 range in this case corresponds with the board's revision to the Town's assessment methodology and depreciation.

If the taxes have been paid, the amount paid on the value in excess of \$24,650 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 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. This, 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. 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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Susan M. Cormier, Taxpayer; and Chairman, Town of Marlow.

Dated: October 18, 1995

Clerk

Melanie J. Ekstrom, Deputy