

Harold O. and Harlene C. Briggs

v.

Town of Brookline

Docket No.: 16042-95PT

DECISION

Based on the Town's March 13, 1997 response to the board's February 26, 1997 order, the board finds the proper assessment to be \$37,900. This assessment is based on the board's findings in Beatrice Reid et al v. Town of Brookline, BTLA Docket No.: 13764-93PT which was attached to the February 26, 1997 order.

If the taxes have been paid, the amount paid on the value in excess of \$37,900 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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

Page 2
Briggs v. Town of Brookline
Docket No.: 16042-95PT

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

Paul B. Franklin, Chairman

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Certification

I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, to Harold O. and Harlene C. Briggs, Taxpayers; and

Chairman, Selectmen of Brookline.

Date: April 16, 1997

Valerie B. Lanigan, Clerk

0006

Harold O. and Harlene C. Briggs

v.

Town of Brookline

Docket No.: 16042-95PT

ORDER

After reviewing the "Taxpayers'" appeal document, the board finds the issues raised under the specificity section are similar to a case previously decided by the board. Enclosed is a copy of Beatrice Reid et al v. Town of Brookline, BTLA Docket No.: 13764-93PT, in which the board granted the taxpayers' appeals to the town's recommended assessment. In these appeals, the taxpayers argued their leasehold interests were not taxable and the amenity value attributed to the properties was excessive. The town adjusted the properties' amenity value to account for location. The board found the leasehold interests were taxable as real estate and the town's amenity value adjustment was appropriate.

The attached decision clearly defines the board's position on this issue and, based on clear precedence, the board hopes to resolve this appeal without a hearing. Therefore, the Taxpayers and the "Town" are ordered to review the decision and, within thirty (30) days of the clerk's date below, show cause why

the board should not issue an order granting the Taxpayers' appeal without a hearing and ordering the Town to adjust the amenities value. Upon receipt of the parties' written responses, the board will make its ruling.

Page 2
Briggs v. Town of Brookline
Docket No.: 16042-95PT

The parties are reminded that all documents filed with this board must be copied to the opposing party pursuant to board rule TAX 201.14, and the document shall certify that a copy was forwarded to the opposing party.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Douglas S. Ricard, Member

CERTIFICATION

I hereby certify that copies of the foregoing order have this date been mailed, postage prepaid, to Harold O. and Harlene C. Briggs, Taxpayers; and Chairman, Selectmen of Brookline.

Dated: February 26, 1997

Valerie B. Lanigan, Clerk

0005