

Joseph L. and Muriel Trovato, Jr.

v.

Town of Northwood

Docket No.: 16895-96PT

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1996 assessment of \$210,100 (land \$34,600; buildings \$175,500) on a 3.10-acre lot with a single-family home and antique store (the Property). 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 a disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show that the Property's assessment was higher than the general level of assessment in the municipality. Id. The Taxpayers carried this burden.

The Taxpayers argued the assessment was excessive because:

- (1) an appraisal estimated the value to be \$195,000; and
- (2) the house was built in 1860 and the Town has not adequately depreciated

it for its age and condition.

The Town argued the assessment was proper because:

(1) the assessment was revised based on information from the Taxpayers' appraisal;

(2) the Taxpayers' appraiser's gross living area adjustments are low;

(3) a comparable sale indicates the assessment is proper; and  
Page 2

Trovato v. Town of Northwood  
Docket No.: 16895-96PT

(4) the assessment is within 10% of the Taxpayers' appraised value.

The board's review appraiser (Mr. Bartlett) inspected the property, reviewed the property-assessment card, reviewed the parties' briefs and filed a report with the board. Note: Mr. Bartlett's report is not an appraisal. The board reviews 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 Mr. Bartlett's recommendation. The parties were given an opportunity to respond to the report. No responses were received.

**Board's Rulings**

Based on the evidence, the board finds the proper assessment to be \$198,800. This assessment is based on an additional 5% functional depreciation to account for both the excess contributory value of the barn by the Town's methodology and the old small kitchen that existed in 1996 prior to renovations in 1997. The board's calculations are summarized as follows:

Replacement cost new	\$226,526
Total depreciation (-36%)	<u>X .64</u>
Building depreciated value	\$145,000
Extra features	19,200
Land	<u>34,600</u>
Total value	\$198,800

The board was unable to place any weight on the RJC & Associates

appraisal due to the lack of description of the comparables and documentation of the adjustments.

The board did review and gave some weight to Mr. Bartlett's report. However, Mr. Bartlett's review was primarily limited to a cost approach estimate on the Property (accepting the Town's land assessment) and a comparison of the Property to a similar house and barn (Map 222 Lot 47) that was not used for selling antiques. Because no thorough market analysis was contained in either the RJC appraisal or Mr. Bartlett's report, the board concludes that assessment proportionality is best served by depreciating the Town's assessment to recognize the excess contributory value of the barn and the old kitchen as testified to by the Taxpayer and noted in Mr. Bartlett's report.

Page 3  
Trovato v. Town of Northwood  
Docket No.: 16895-96PT

If the taxes have been paid for the tax year 1996, the amount paid on the value in excess of \$198,800 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 1997. 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 "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

---

Paul B. Franklin, Chairman

---

Michele E. LeBrun, Member

Page 4  
Trovato v. Town of Northwood  
Docket No.: 16895-96PT

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph L. and Muriel Trovato, Jr., Taxpayers; and Chairman, Selectmen of Northwood.

Date: November 4, 1998

---

Valerie B. Lanigan, Clerk