

Robert A. Bennett and Jane D. Bennett

v.

Town of Swanzey

Docket No. 3986-87

DECISION

A hearing in this appeal was held, as scheduled, on April 21, 1989. The Taxpayers were represented by Robert A. Bennett, one of them. The Town was represented by Sean M. Casey, Appraiser, M.M.C., Inc.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessments of \$101,100 placed on their land on East Shore Road and \$219,500 placed on their land and buildings located on East Shore Road, for the 1987 tax year. The subject properties consist of 68 acres of vacant land identified as Map 44, Lot 6 and 3.4 acres of land improved with buildings and identified as Map 44, Lot 5. The buildings on Lot 5 were assessed for a total of \$174,400 and consisted of a main building and an accessory camp style building.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 96 percent for the 1987 tax year for the Town of Swanzey. Based on that ratio the Taxpayers total assessment equates to a market value of \$333,960, on April 1, 1987.

Mr. Bennett argued the subject property was never viewed by the Town's appraiser until Mr. Casey inspected the property. The Taxpayer testified the main building was built by a playwright in 1890, as strictly a summer home and thus should not be compared with or assessed as a year round building. Mr. Bennett described the building as having no heat system and no insulation with a water supply drawn from the lake.

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The Town's representative, Mr. Casey, testified he viewed the subject during the week prior to this hearing, and in his opinion the second building on the subject property was better described as a bath house. Mr. Casey recommended the smaller building be appraised and assessed for \$10,200.

Mr. Casey argued that the main building is used seasonally, but could be converted to year round use and stated that the building was not a camp. Mr. Casey testified in his opinion the assessed value of the fireplaces should be \$1,750 and the area of the building should be reduced for assessment purposes to reflect its utility. Mr. Casey observed the attic was not accessible and also observed the agrade of the building was above average due to the unique features of the building. Mr. Casey also noted the main building was not modernized.

Mr. Casey stated the vacant land should be assessed as undeveloped property and recommended an assessment of \$95,900. Mr. Casey concluded his testimony with a summary of his recommendations with assessments of \$95,900 for Lot 6 and an assessment of \$180,650, with the land valued at \$45,000 and the buildings valued for a total of \$116,800 for the main building and \$10,200 for the bath house.

The Board finds the Taxpayers demonstrated the unique nature of the buildings under appeal. The Board finds the Town's representative appraiser correctly determined the proper assessment for the Taxpayers land and buildings. The Board notes the evidence and testimony indicates that some of the differences of opinion of value might have been mediated had an initial inspection been made at the time of the appraisal.

The Board therefore rules the proper assessment for the land identified as Lot 6 is \$95,900 and the proper assessment for the land and buildings identified as Lot 5 is \$45,000 for the land, \$116,800 for the main building and \$10,200 for the bath house for a total assessment on Lot 5 of \$180,650.

If the taxes have been paid, the amount paid on the value in excess of \$276,550 is to be refunded with interest at six percent per annum from date of payment to date of refund.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

— Anne S. Richmond, Esquire, Chairman

— (Mr. Twigg did not sit.)

— George Twigg, III, Member

— Peter J. Donahue, Member

— Paul B. Franklin, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert A. & Jane D. Bennett, taxpayers; and the Chairman, Selectmen of Swanzey.

— Michele E. LeBrun, Clerk

Date:

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AMENDED DECISION

Both the Taxpayers and the Town questioned the arithmetic calculations in the Board's decision in the above mentioned case dated August 15, 1989.

Consequently, the Board amends paragraph 5 on page 2 of the decision to read as follows:

The Board therefore rules the proper assessment for the land identified as Lot 6 is \$95,900 and the proper assessment for the land and buildings identified as Lot 5 is \$45,000 for the land, \$116,800 for the main building, \$10,200 for the bath house and \$8,650 for other outbuildings and extra features for a total assessment on Lot 5 of \$180,650.

The Board's order therefore stands that if the taxes have been paid, the amount in excess of \$276,550 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

— Anne S. Richmond, Esquire, Chairman

— (Mr. Twigg did not sit.)

— George Twigg, III, Member

— Peter J. Donahue, Member

— Paul B. Franklin, Member

Date: September 7, 1989

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert A. & Jane D. Bennett, taxpayers; and the Chairman, Selectmen of Swanzev.

— Michele E. LeBrun, Clerk

Date: September 7, 1989

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