

Sheila S. Katz
v.
Town of Danville

Docket No. 4477-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$156,700.00 (land, \$96,650.00; buildings, \$60,050.00) on a single-family home with an in-ground pool on 2 acres of land (the Property). 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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried her burden and proved she was disproportionally taxed.

The Taxpayer argued the assessment was too high because of the building's condition and because the assessment was higher when compared to other properties. To support her argument, the Taxpayer submitted photographs of the Property, along with a November 1990 appraisal that included comparable properties. We note the appraisal was not trended back to April 1, 1988, and this deficiency was considered before making this decision.

The Town agreed adjustments should be made to reflect the buildings' and land's condition. A copy of the adjusted property record card is attached.

The recommended adjusted assessment was \$128,500.00 (land \$81,600.00 and buildings \$46,900.00).

Based on the evidence, we find the correct assessment should be the Town's adjusted assessment of \$128,500.00. This adjusted assessment properly corrects the original assessment, specifically by correcting the home measurements, attributing additional depreciation to the house and depreciating the land because of its condition and because the lot cannot be further subdivided.

If the taxes have been paid, the amount paid on the value in excess of \$128,500.00 shall be refunded with interest at six percent per annum from date paid to refund date.

The board appreciates the manner in which the Town and its representative have handled this appeal. It is commendable that the Town reviewed the property record card after again visiting the Property. We assume the Town shared the adjusted assessment with the Taxpayer before the hearing, but the Taxpayer wanted a hearing anyway, as is her right.

January 9, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Ignatius MacLellan

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Sheila S. Katz, the Taxpayer, to the Chairman, Board of Selectmen, Town of Danville, and to Richard Young, DRA.

Michele E. LeBrun, Clerk

January 9, 1991

1002