Mary T. Graves
v.
Town of Hancock

Docket No. 4530-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of $97,600 (land, $31,100; buildings, $66,500) on her real estate consisting of a dwelling and a 3.95 acre lot (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 this burden and proved she was disproportionally taxed.

The Taxpayer argued the assessment was excessive because: 1) she purchased the house from the Town prior to April 1, 1988, had to move the house off the Town's land by May 1, 1988, and on April 1, 1988, the house was off its old foundation and enroute to its present site; 2) the rear land of the lot was gullied and received drainage from Norway Hill; 3) the site had no finish loam, only rough gravel and clay; 4) the kitchen was actually in a hallway and was very small; and 5) an active service garage was located across Rte. 123 from the property.

The Town stated that the property was appraised on the presumption that the house was located on the present site and had electric and town water connections as of April 1, 1988. The Town agreed that the 40% adjustment given to the rear land in 1989 should also apply to 1988.

Based on the evidence, we find the correct assessment should be $64,100 (land, $28,750 and building, $35,350). The Board finds that the house on April

1, 1988 was enroute to its present site and foundation and that a 50% adjustment to the house value, as suggested by the Town at hearing, would reasonably reflect its value in its transitional and incomplete state. Further, the Board finds that the Town had properly recognized the steep topography of the rear land in the 1989 assessment by reducing the rear land assessment by 40% and that this adjustment was also warranted for the 1988 tax year. The Board finds no conclusive evidence that any possible effects on the property's value due to a small kitchen and the proximity of a garage were not accounted for or rectified either by the Town's depreciation of the house or the Taxpayer's siting of the house on the lot. In summary, the 1988 assessment is calculated as follows:

House	$30,200
Extra features	950
Outbuildings	4,200
Land	28,750
Total	$64,100

If the taxes have been paid, the amount paid on the value in excess of $64,100 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

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Michele E. LeBrun, Member

Date: July 17, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Mary T. Graves, taxpayer; and the Chairman, Selectmen of Hancock.

_____
Brenda Tibbetts, Clerk

Date: July 17, 1991

0009