

Raymond P. Tomasini and Rita V. Tomasini

v.

Town of Tuftonboro

Docket No. 4732-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 revised assessment of \$37,650.00 (land, \$24,650; buildings, \$13,000) on a lot with improvements on Cow Island (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 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 Taxpayers carried their burden and proved they were disproportionally taxed.

The Taxpayers argued the assessment was incorrect because:

(1) they were assessed for a building when only the foundation existed as of April 1, 1988; and

(2) they were assessed for a water and septic system when none existed as of April 1, 1988.

The Town explained the Town's assessment, but the Town could not refute the Taxpayers' testimony that no building existed as of April 1, 1988.

Based on the evidence, we find the correct assessment should be \$32,150.00 (land \$27,150 and building \$5,000). This assessment is ordered because, based on the evidence, no building existed as of April 1, 1988, but a foundation did exist. While the Taxpayer testified the foundation was worth \$1,500, we find the Town's \$5,000 figure to be more accurate. Finally, the board has left the assessment for the water and septic in place because the Taxpayers testified they had an approved septic plan. This approved septic plan certainly had a value that applied to the Property.

If the taxes have been paid, the amount paid on the value in excess of \$32,150.00 shall be refunded with interest at six percent per annum from date paid to refund date.

February 5, 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 Raymond P. and Rita V. Tomasini, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Tuftonboro.

February 5, 1991

Michele E. LeBrun, Clerk