

Gilman Ellis and Grace Ellis

v.

Town of Alstead

Docket No. 4970-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$49,300 (land, \$14,600; buildings, \$34,700) on their real estate consisting of a home, shed, and barn on approximately 10.3 acres of land (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 this burden and proved they were disproportionately taxed.

Neither party appeared, but consistent with our rule, TAX 102.03(g), neither party was defaulted. This decision is based on the evidence presented to the board.

The Taxpayers argued in their application they were improperly assessed because the land was steep and had limited value.

The Town, in their letter of August 16, 1989, stated the Taxpayers had filed with the Selectmen's office on December 20, 1988.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$43,450 (land \$9,550 and building \$33,900). This assessment is ordered because the land should be valued for topography and the barn should be depreciated for physical and functional condition.

If the taxes have been paid, the amount paid on the value in excess of \$43,450 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

March 11, 1991

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 Gilman and Grace Ellis, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Alstead.

Michele E. LeBrun, Clerk

March 11, 1991