

Warren C. Leighton and Ruth E. Leighton
v.
Town of Stewartstown

Docket No. 5115-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$69,400 (land, \$17,800; buildings, \$51,600) on a single-family house with 5 acres, plus or minus (the Property). For the reasons stated below, the appeal for abatement is granted.

The Town failed to appear, but consistent with our rule, TAX 102.03(g), the Town was not defaulted. This decision is based on the evidence presented to the board.

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 excessive because:

1) the land was overvalued at approximately \$4,000 per acre, especially where (i) there are only 2 to 3 dry acres; (ii) the land is steeply sloped; and (iii) compared to other lots the per-acre value was excessive; and

2) the building was in poor shape with many obsolete "features," including (i) rotting wood in sill; (ii) lack of central heat; (iii) lack of insulation; (iv) stone foundation; and (v) generally poor physical condition.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$63,450 (land, \$17,800; building, \$45,650). The inspector recommended additional physical and functional depreciation.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$58,570 (land \$17,800 and building \$40,770). This assessment is ordered because the Taxpayers proved additional functional depreciation should have been given the building.

Sound value	\$87,590
Physical depreciation	35%
Functional depreciation	20%
Depreciated value	\$45,526
Plus additional building	2,440
Times local multiplier	85%
Total adjusted building value	\$40,771

If the taxes have been paid, the amount paid on the value in excess of \$58,570 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

August 5, 1991

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Warren C. and Ruth E. Leighton, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Stewartstown.

August 5, 1991

Brenda L. Tibbetts, Clerk

1002