

Patricia J. Sliva
v.
Town of Pembroke

Docket Nos. 5307-88 and 6401-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 and 1989 assessment of \$142,200 (land, \$40,000; buildings, \$102,200) on five mobile homes and a small cottage on 3/4 acre of land in a flood plain. 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 of the age and size of the units as well as the water problems in a small 3/4 acre parcel in a flood plain. Tighter zoning ordinances relative to size and set back from bodies of water further limit the desirability of this property in the market.

The Town agreed the assessment should be adjusted downward and Mr. Donald Dollard, Town appraiser, said he had "no problem" with the Board of Tax and Land Appeals review appraiser, Mr. J. Philip Estey's, suggestion that a 30% reduction be given to the mobile homes for "under-size." No change was recommended from the Town's adjusted land value on the flood plain influence.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$119,350 (land, \$40,000 and building, \$79,350).

If the taxes have been paid, the amount paid on the value in excess of \$119,350 shall be refunded with interest at six percent per annum from date paid to refund date, for both tax years (1988 and 1989).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: April 5, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Patricia J. Sliva, taxpayer; and the Chairman, Selectmen of Pembroke.

Michele E. LeBrun, Clerk

Date: April 5, 1991

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