

Bruce C. Holt and Ann C. Holt

v.

Town of Stewartstown

Docket No. 5545-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$80,000 (land, \$63,600; buildings, \$16,400) on their real estate consisting of a half-acre lot with a seasonal dwelling on Diamond Pond (the Property). 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. 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.

The Taxpayers argued the assessment was excessive because:

- (1) the lot was wet and low and could not have a state-approved septic system designed for it;
- (2) the water supply was the adjacent brook;
- (3) the building was in need of some major repairs; and

(4) the Property was inferior to abutting properties.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$63,900 (land \$50,100 and building \$13,800). This assessment is ordered because:

(1) the Town, after combining the previously separately assessed lots 18 and 19, apparently adjusted the site-adjustment factor from x70 to x90 to lessen the impact of appraising the lots as one;

(2) the abutting lots all had received a x70 adjustment on the site value; and

(3) the Taxpayers presented good evidence as to the physical problems with both the lot and the dwelling.

If the taxes have been paid, the amount paid on the value in excess of \$63,900 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 Bruce C. and Ann C. Holt, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Stewartstown.

August 5, 1991

Brenda L. Tibbetts, Clerk

