

James C. Peckham and Jean S. Peckham

v.

Town of Danbury

Docket No. 5552-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$48,420.00 (land, \$35,138.00; buildings, \$13,282.00) on a single-family home and two lots consisting of a .54-acre lot and a 20.2-acre lot, treated as one lot because of restrictions apparently imposed by the planning board (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.

The Taxpayers argued the assessment was too high because no adjustments were made for:

- (a) the shape of the lot;
- (b) the existence of two brooks that adversely affected use;
- (c) the burden of a 40-foot right-of-way; and
- (d) the topography (i.e., sloping lot).

The Town argued the assessment was supported by its revaluation data. The Town, however, admitted no adjustment was made for the wetlands or excess acreage (issues raised by the Taxpayers). Moreover, the Town admitted it had assessed recently subdivided lots higher than unsubdivided lots, but it argued this distinction was supported by the sales data. For example, the Town admitted a 50-acre recently subdivided lot was assessed at a higher value than an existing 50-acre lot.

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 to be \$41,332.00 (land \$28,050.00 and building \$13,282.00).

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$41,332.00 (land \$28,050.00 and building \$13,282.00). This assessment is ordered because the Town failed to make the necessary adjustments to the land's assessment and because the Town's approach inequitably assessed recently subdivided lots.

If the taxes have been paid, the amount paid on the value in excess of \$41,332.00 shall be refunded with interest at six percent per annum from date paid to refund date.

January 9, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within Decision have been mailed this date, postage prepaid, to James C. and Jean S. Peckham, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Danbury.

Michele E. LeBrun, Clerk

January 9, 1991

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