

Leo H. Rankins and Elizabeth J. Rankins
v.
Town of Danbury

Docket No. 5598-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$53,570.00 (land, \$34,780.00; buildings, \$18,790.00) on a single-family, log home on a 17.2-acre lot (the Property). For the reasons stated below, the appeal for abatement is granted. The Taxpayers failed to appear, but consistent with our rule, TAX 102.03(g), the Taxpayers were 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 this burden and proved they were disproportionately taxed.

The Taxpayers argued in their application for abatement:

(1) the Town assessed the Property at \$1,200 an acre while other lots in the Town were assessed at \$300.00 an acre; and

(2) the Property is subject to flooding and adversely affected by the river, e.g., the existence of wetlands.

The Town argued the assessment was supported by their revaluation data.

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

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 on the land to be \$23,890.00. The board's inspector erroneously used the 1989 building value in calculating for 1988. We have corrected this error in making our decision.

Based on the evidence, including the board's inspector's report and the unequal assessment of recently subdivided lots, we find the correct assessment to be \$42,680.00 (land \$23,890.00 and building \$18,790.00). This assessment is ordered because the Town failed to make the necessary adjustments to the land's assessment and because the Town's revaluation inequitably assessed this recently subdivided lot.

If the taxes have been paid, the amount paid on the value in excess of \$42,680.00 shall be refunded with interest at six percent per annum from date paid to refund date.

January 11, 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 Leo H. and Elizabeth J. Rankins, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Danbury.

Michele E. LeBrun, Clerk

January 11, 1991

1002