

Russell H. Stevens

v.

Town of Kingston

Docket No. 5602-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$114,000 (land, \$74,600; buildings, \$39,400) on a single-family home on Pow wow Pond (the Property). For the reasons stated below, the appeal for abatement is granted.

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

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). While the Taxpayer failed to carry this burden, the Town admitted an error was made on the property record card.

The Taxpayer argued: "It's really a 3 room camp, no cellar or foundation set on cement blocks 5' apart, on a River thats nothing but an enlarged swamp, all weed & mud."

The Town argued the assessment was correct based on the methodology used throughout the Town and based on comparable properties. The Town, however, upon board questioning, admitted the Property should have received a land adjustment for the pond frontage issues. This adjustment had been given to the Morin property, one of the Town's comparables. Therefore, the condition factor must be reduced from 175 to 160 to reflect the pond frontage problems, resulting in a revised assessment of \$107,600 (land, \$68,200; buildings, \$39,400).

If the taxes have been paid, the amount paid on the value in excess of \$107,608 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Member

Michele E. LeBrun, Member

Date: July 11, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Russell H. Stevens, taxpayer; and the Chairman, Selectmen of Kingston. Also, Scott Bartlett, Appraiser, M.M.C., Inc.

Melanie J. Ekstrom, Deputy Clerk

Date: July 11, 1991

0009