

Robert A. Lancaster and L. Christine Lancaster
v.
Town of Kingston

Docket No. 5616-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$84,400 (land, \$51,000; buildings, \$33,400) on their real estate consisting of a single-family, residential-type building sited on approximately 1.5 acres of land at 19 Mill Road (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 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.

The Taxpayers first argued a tentative settlement agreement had been made with Scott Bartlett of MMC, Inc., the Town's representative, but that that agreement was not fulfilled as the Taxpayers were not provided a written copy of the agreement for the Taxpayers' signature prior to the scheduled

hearing. The Taxpayers then testified as to the merits of the appeal and stated that the house on the property was in very poor condition. The Taxpayers also argued the property had been placed for sale as a "for sale by owner," and offers from buyers were made indicating values ranging from \$30,000 to \$50,000, which were not accepted.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$61,000 (land, \$51,000; building, \$10,000). This assessment is ordered because the Taxpayers presented evidence, including photographs, Taxpayers Exhibits 1 and 2, which established the condition of the building and therefore met the burden of proof that the Property was disproportionately assessed.

If the taxes have been paid, the amount paid on the value in excess of \$61,000 is to be refunded with interest at six percent per annum from date paid to refund date.

April 5, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Robert A. and L. Christine Lancaster, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Kingston.

Michele E. LeBrun, Clerk

April 5, 1991

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