

James C. Overman
v.
Town of Bristol

Docket No. 5716-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$144,900 (land, \$81,000; buildings, \$63,900) on his real estate at 26 Holiday Hill consisting of a dwelling on a 10,000 square foot lot (Map R12, Lot 28). The Taxpayer also was assessed for a one-forty third interest in a beach lot (Map R12, Lot 49) for a value of \$7,450. For the reasons stated below, the appeal for abatement is granted.

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). We find the Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer stated they had purchased the property in August of 1987 for \$138,500 including \$2,500 of personal property. They argued that they do not believe the property could have increased to the total assessed value of \$152,350 in the eight months between their purchase and the assessment date of April 1, 1988. The Taxpayer also stated there was only 72 square feet of finished area in the basement and that the basement was seasonally wet in the spring and fall.

The Town argued that the inflation rate up to April 1, 1988 was 2 percent per month and if applied to the Taxpayers purchase would equate to an indicated value of \$157,750.

Based on the evidence, including the board's inspector's report, we find the correct assessment for Lot 28 should be \$139,400 (land \$81,000 and building

\$58,400). The assessment for the interest in Lot 49 remains at \$7,450.

The Board finds that the assessment contains two nearly offsetting errors. The basement has only 72 square feet of finished area (the Town had figured the basement as all finished) and a 144 square foot addition on the rear of the house had been omitted by the Town.

Further, the Board finds that a house, especially of this split level design, suffers from some functional obsolescence due to a seasonally wet basement. As the dwelling has a concrete block basement, this is a condition that cannot be easily or inexpensively corrected so as to regain the full potential of the basement area. The Board rules the dwelling should receive a 10 percent functional depreciation for this condition. With the corrections stated above, the correct building value should be \$58,400.

If the taxes have been paid, the amount paid on the total value in excess of \$146,850 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: February 6, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to James C. Overman, taxpayer; and Chairman, Selectmen of Bristol. Also, Richard Young, Director, Property Appraisal Division, Department of Revenue Administration.

Michele E. LeBrun, Clerk

Date: February 6, 1991

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