

Walter E. Lurvey

v.

Town of Charlestown

Docket No.: 5878-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$50,900 (land, \$19,500; buildings, \$31,400) on Acworth Road - Map 23, Lot 34, consisting of 2 acres and a mobile home (the Property). 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. 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 disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) the driveway was gravel and not paved as shown on the property assessment card;

(2) the land is not level and the only flat land is where the trailer sits, the rest is ledges and hillside;

(3) the land is being assessed for 2.0 acres when there is only around 1/2 acre; and

(4) the mobile home was purchased new in 1988 for \$19,000 and is assessed too high at \$31,400.

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The Town did not appear and presented no written arguments.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$50,200 (land, \$19,000; buildings, \$31,200). This assessment is ordered because the board removes the \$500 charge for a paved driveway which wasn't there in 1989. Further, the board finds the 196 square foot shed warrants a physical depreciation of 25 percent. At the board's request, the Taxpayer submitted a copy of the deed to the Property in the hope that the lot description would show less than two (2) acres as assessed. Unfortunately, the description was inconclusive as there were no compass and degree headings to indicate the corner angles necessary to calculate area of the lot.

If the taxes have been paid, the amount paid on the value in excess of \$50,200 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

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I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Walter E. Lurvey, Taxpayer; and Chairman, Selectmen of Charlestown.

Dated: October 6, 1992

Melanie J. Ekstrom, Deputy Clerk

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