

Donald H. and Jane G. Wickens

v.

Town of Washington

Docket No. 5879-89 and 8814-90

DECISION

The "Taxpayer" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$122,870 and \$133,280 (land, \$33,550 and \$43,960; buildings, \$89,320 and \$89,320) on Sandy Cove Road, Map 24 Lot 111, consisting of .43 acres with 144 feet of shore front (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 disproportionality.

A hearing was held on February 11, 1992 consolidating the 1989 and 1990 tax years. It was apparent to the Board from the testimony by both parties that there existed what appeared to be substantial and mutual differences of opinion on information factual in nature concerning the subject property. The Board, therefore, ordered the parties to schedule a view of the subject property in the presence of the Board's Review Inspector, Mr. J. Philip Estey,

at a time convenient to all parties.

Accordingly, on February 20, 1992 the Taxpayer's property was inspected as instructed by the Board.

On February 27, 1992 the parties each wrote letters to the Board stating their positions as a result of the "view". These position statements from both parties are quoted in some detail in this decision.

The Taxpayer wrote the following:
The Town assessors, Mr. Estey and ourselves met on 2-20-92, to discuss our assessment. The Town has agreed to some changes, and I thank them for that. However, we still disagree on the following items:

1. Plumbing rated as R-4 which is for 1 1/2 to 2 baths and above average quality plumbing.
*I have 1 bath, thin wall piping and Grossman fixtures, also a 40 gallon hot water heater not 45 or above as stated in R-4, I feel this should be rated R-3.
2. Hood over stove, non-vented - \$200.00
*Mr. Estey said this should not be charged.
3. Sky lights now \$2400.00.
*Mr. Estey had \$900.00 on his report.
4. Enclosed porch now \$3,000.00 or \$27.70 per square foot.
*My neighbors, Hannus, is at \$18.50 and a much better porch.
5. Garage door in storage under work shop 6x7 foot \$400.00.
6. The last issue is the frontage on the lake. No difference between town road or private, nor recreational verses non recreational, and last no difference on depth 18' verses 20'. 200' from mine, they are assessed at \$10,000.00 less than mine, and are also on our private road.

The Town made the following written statement:

On Tuesday, Feb. 11, 1992, these dockets came before your Board in a hearing between the Town of Washington and D. & J. Wickens. At this time your Board requested that the towns Assessors revisit the property (TM#24-111) with the property owners and the BTLA investigator, Mr. P. Estey.

An appointment was made for this meeting to take place on Feb. 20, 1992. At this time the entire home was reviewed and evaluated along with the property on which it sits.

The enclosed copies are of (TM #24-111) property card prior to the 2/20/92 visit (card #1) and (card #2) after the visit, reflecting adjustments that were made per the DRA appraisal manual (Rev. 4/88).

The bottom line of these adjustments is a \$85230 lowering of the assessment. This was calculated by adjusting the following:

Square footage and Heat

-The section of house originally calculated as 1 story living space (12x9) over full basement was found to be an enclosed porch with electric heat on piers. The section originally calculated as enc. pch., between the garage and house, was found to be 1 story living space over full basement.

These adjustments created a difference in the overall square footage from 993 sq. ft. to 1015 sq. ft. of living space. This changed the base value of the house from 64151 to 65495, an increase of \$1343. This also changed the enclosed porch value from 3630 to 3110, and the heating adjustment from minus 1113 to minus 1135. The furnace type was also changed from an oil burning unit to a combination wood/coal/oil furnace for an increase of \$2000.

Hearth, Kitchen built-ins & skylites

-The hearth was calculated as a class 4 to go along with the structure classification, after the field visit it was found to be a class 2 quality, a deduction of \$1300.

-Kitchen built-ins remained the same 500 for a dishwasher and 200 for a fan & hood. This value for the fan and hood is used for all R-4 structures with these, vented or not, as was made standard during the 1989 reval. Future reevaluations may change this process.

-Skylites were adjusted from 3 fixed skylines and 2 which open and close (2100) to 3 bubble lites, at the lowest rate, and 2 op/cl (2400), an increase of \$300.

Covered porch, Garage & Workshop

-The value of the covered porch was incorrectly done on the 1989/90 card. It was taken from the 100 sq. ft. chart instead of the 125 sq. ft. listing for a class 2 structure. This correction created an increase of \$200.

-The garage replacement value stayed the same but a 5% physical depreciation was added for cracks in the floor. This being a decrease of \$390.

-The workshop replacement value stayed the same but the final value changed because the heat adjustment was removed as it was found not to have elect. heat. Also, the full basement was figured as a class 4 and now is figured as a class 3, because of cement blocks, with dirt floor and 5% physical depreciation for cracks in the foundation and low headroom in the basement, a \$400 value was figured in 89/90 and remains in the final value. These corrections created a decrease of \$1550. on the workshop.

Solar Room

-This room was, and still is figured as 1 story living space not as a solar addition as was stated by the property owner during the 2/11 hearing. The foundation was figured as one quarter crawl space but is now considered all crawl, a decrease of \$1361.

Summary of house value adjustments:

The main increase in the basic replacement value of the house was due to the \$2000 addition of the combination furnace. The final value reduction was due to the physical and functional depreciation factors added to the house, garage and workshop, after the field visit. Again, the structures assessments have not been decreased by \$8520.

Water frontage

A review of the waterfrontage of this property reveals that the assessment is in line with other properties in this area and no adjustments have been made.

The above adjustments were sent to the property owners on 2/20 and reviewed with them on 2/27 (the Assessors office hours are only on Thursdays).

This Board of Assessors classified the plumbing as a class 4 as per our standards, used all across town, and per the DRA manual.

The Board finds the Town adequately addressed the issues at the hearing by the Taxpayer and made reasonable adjustments for the specific complaints raised by the Taxpayer after a thorough inspection, in the presence of the Board Inspector, Mr. Estey, and the Assessors, as ordered.

Based on the evidence and the adjustments made by the Town, we find the correct assessment should be:

Docket Number

5878-89 (land \$43,960, building \$80,800) total \$124,760

8814-90 (land \$43,960, building \$80,800) total \$124,760

If the taxes have been paid for 1989 and 1990 tax years, the amount paid in excess of \$124,760 shall be refunded with interest at six percent per annum from date paid to refund ate. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(s) George Twigg, III, Chairman

(s) Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald H. & Jane G. Wickens, taxpayers; and Chairman, Selectmen of Washington.

Dated: April 28, 1992

(s) Valerie B. Lanigan, Clerk

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ORDER

In response to the Town of Washington's ("Town") letter dated May 6, 1992, the board inadvertently indicated the total assessment for 1989 was \$124,760. Although the board found the proper building assessment for both the 1989 and 1990 tax years was \$80,800, the proper land assessment for 1989 was found to be \$33,550 for 1989 for a total 1989 assessment of \$114,350.

Page 5, paragraph 1 of the board's decision dated April 28, 1992, is hereby amended as follows:

"Based on the evidence and the adjustments made by the Town, we find the correct assessments should be:

Docket Number

5879-89 (land \$33,550; building \$80,800) total \$114,350
8814-90 (land \$43,960; building \$80,800) total \$124,760"

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to Donald H. and Jane G. Wickens; taxpayers; and Chairman, Selectmen of Washington.

Dated: June 26, 1992
Valerie B. Lanigan, Clerk

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RECERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to Donald H. and Jane G. Wickens; taxpayers; and Chairman, Selectmen of Washington, due to being inadvertently mailed to the wrong taxpayer.

Dated: July 31, 1992
Valerie B. Lanigan, Clerk

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