

Arthur Brown and Carol Brown

v.

Town of Cornish

Docket No. 5910-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$146,250 (land, \$19,350; buildings, \$126,900) on 43 acres with dwellings located on Jackson 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 disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

(1) of discrepancies in the size and rate class of the house from 1987 to 1990;

(2) the Property is a 1 1/2 story structure classified as a 1 3/4 story by the Town;

(3) the house was rated a class 4 1/2 by the Town prior to 1989, class 5 in 1989 and class 4 1/2 in 1990; and

(4) comparable properties are rated classes 4 and 4 1/2.

The Town argued the assessment was proper because:

(1) comparable properties selected at random showed the consistency of the process;

(2) the Property has a lot of retaining walls, a swimming pool, and other improvements to the site which were significantly underappraised;

(3) there may be distortions of how property type changed from revaluation to revaluation;

(4) according to Marshall & Swift, trending from April 1, 1990 back to April 1, 1989, indicates that building costs went up somewhere around 40%, and land values went up around 5-10%, then dropped; and

(5) costs to rebuild are much more than what the property is assessed for.

Based on the evidence we find the correct assessment should be \$134,000 (land, \$19,350 and building \$114,650). This assessment is ordered because the Board agreed that the dwelling was a 1 1/2 story structure and comparables introduced indicate that the house should be rated class 4 1/2.

If the taxes have been paid, the amount paid on the value in excess of \$134,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

Date: October 18, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Arthur & Carol Brown, taxpayers; and the Chairman, Selectmen of Cornish.

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Brenda L. Tibbetts, Clerk

Date: October 18, 1991

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