

Michael and Julianne DeVincenzo

v.

Town of Bristol

Docket No. 5922-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$131,400 (land, \$57,600; buildings, \$73,800) on their real estate, consisting of a dwelling on a 1.25 acre lot on Overlook Drive (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:

- (1) abutting property of Worthen of similar value as the Taxpayers has been on the market for the past two years and is now listed for under \$100,000; and
- (2) the floors and stairs are unfinished in the house.

The Town submitted a photo of the Taxpayers' house and submitted the assessment cards and photos of two comparables.

The Town argued the assessment is proper because:

- (1) 5 percent depreciation was given for unfinished trim and 5 percent for cathedral ceiling area;
- (2) the topography of the Taxpayers' lot is superior to the Worthen property; and
- (3) the Taxpayers' house is a larger two-story as opposed to the Worthen's smaller one-story house.

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Based on the evidence we find the correct assessment should be \$127,300 (land, \$57,600 and building \$69,700). This assessment is ordered because the unfinished areas (floors, trim, stairs) should be further reduced by an additional 5 percent on the dwelling value. Beyond that, however, the Taxpayers failed to prove their property has declined in value at a faster rate than has all other property in Town.

If the taxes have been paid, the amount paid on the value in excess of \$127,300 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

Paul B. Franklin, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Michael and Julianne DeVincenzo, Taxpayers; and Chairman, Selectmen of Bristol.

Melanie J. Ekstrom, Deputy Clerk

Date: January 31, 1992

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