

W. Carl LaFleur, Jr. and Dawn M. LaFleur
v.
Town of Jaffrey

Docket No. 6017-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$143,200 (land, \$46,700; buildings, \$96,500) on a single-family home with a 5.035-acre lot (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)the land was subject to a 50-foot-wide Town easement;
- (2)the road to the Property was not a Town road in 1989;
- (3)the Property has no views of Mount Monadnock; and
- (4)the house had some problems with water, cracked foundation and with plumbing.

The Taxpayers did not submit any evidence of fair market value or other assessments, except their purchase price of \$154,000 in August 1988.

The Town argued:

- (1)the same methodology was used in assessing the Property as was used throughout the Town; and

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(2)the issues about the road, the plumbing and the other problems were not raised before the Town and were not real factors.

Based on the evidence we find the correct assessment should be \$130,500 (land, \$35,500 and building \$95,000). This assessment is ordered because:

(1)the house should be adjusted by minus \$1,500 because of the water and plumbing problems;

(2)the land should be adjusted to \$35,500 to reflect the unaccepted street (minus \$1,500), with the remainder of the adjustment made because of the board's inspector's report. This report indicated the land might warrant an adjustment given the land assessments of abutting properties;

(3)the original \$143,200 assessment results in a \$220,308 equalized value, when the Property was bought in August 1988 for \$154,000, albeit with the contractor probably experiencing financial problems; and

(4)the \$130,500 assessment results in \$200,770, which is closer to the property's fair market valued April 1, 1989.

If the taxes have been paid, the amount paid on the value in excess of \$130,500 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

Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to W. Carl LaFleur, Jr. and Dawn M. LaFleur, taxpayers; and Chairman, Selectmen of Jaffrey.

Brenda L. Tibbetts, Clerk

Date: January 29, 1992

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