

Michael Hume and Cynthia Hume
v.
Town of Newton

Docket Nos. 6023-89 and 8691-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$88,000 (land, \$18,300; buildings, \$69,700) and the 1990 assessment of \$90,800 (land, \$18,300; buildings, \$72,500) on a single-family colonial on 1.42 acres of land on Thornell 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 disproportionately taxed.

The Taxpayers argued their Property was overassessed because:

- 1) the land is rectangularly shaped and sits on a corner lot;
- 2) the building was completed around April 1, 1989, and the Town was notified of that fact; and
- 3) an appraisal prepared by E. Bear Collins on August 24, 1988, estimated the fair market value to be in the amount of \$215,000, with most

emphasis on comparable #1 located on Gould Hill Road in Newton.

The Town did not appear at the hearing and presented no written evidence.

Based on the evidence, we find the correct assessment should be \$81,700 for 1989 and \$90,300 for 1990. This assessment is ordered because the best and only evidence of market value received was the Taxpayers' appraisal report. The board has not allocated the values between land and buildings, and the Town shall make this allocation in accordance with its assessing practices.

This board may award costs as in the superior court, RSA 71-B:9; Tax 201.05(c). Based on the fact that the Town made no attempts to contact the Taxpayers to resolve this matter, did not attend the scheduled hearing, and did not submit any written evidence to the board, the board orders the Town to pay the Taxpayers' costs of \$97.68 (filing fees \$80.00; mileage, \$17.68).

If the taxes have been paid, the amount paid on the value in excess of \$81,700 for tax year 1989 and \$90,300 for tax year 1990 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

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Michael and Cynthia Hume, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Newton.

Melanie J. Ekstrom, Deputy Clerk