

Mary Daniels
v.
Town of Kingston

Docket No. 6062-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$98,000 (land, \$65,500; buildings, \$32,500) on her real estate at Four Twelfth Street, consisting of a converted cottage on a 34,848 square-foot lot (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved she was disproportionally taxed.

The Taxpayer argued:

- 1) an opinion of value by a realtor from Century 21 estimated the value at \$85,000;
- 2) there was no central heat;
- 3) the building was in poor shape; and
- 4) the basement only has a dirt floor.

The Town argued:

- 1) the assessment was within the range of the assessments on the Town's comparables;
- 2) the assessment on the building should be adjusted by five percent for additional physical depreciation; and
- 3) the grading should be lowered.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$88,000 allowing for additional physical and functional depreciation and for an adjustment for some swamp frontage.

Based on the evidence we find the correct assessment should be \$91,435 (land, \$65,500 and building \$25,935). This assessment is ordered because the consistent evidence shows the building warranted additional depreciation. The board accepted the Town's revised assessment but then deducted another five percent from the building for functional depreciation, especially for the lack of central heat.

If the taxes have been paid, the amount paid on the value in excess of \$91,435 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Mary Daniels, taxpayer; the Chairman, Selectmen of Kingston; and Scott Bartlett, appraiser for M.M.C., Inc.

Melanie J. Ekstrom, Deputy Clerk

Date: February 12, 1992

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