

David J. Cassin and Janice M. Cassin

v.

Town of New Boston

Docket No. 6073-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$71,800 (land, \$9,450; buildings, \$62,350) on their real estate at 609 Lyndeboro Road, consisting of a dwelling and attached garage on a 2.64-acre lot (the Property). The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. 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 201.4(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 in their written submittal:

- (1) the indicated equalized value of the property was \$217,575;
- (2) the property was sold in late 1989 for \$170,000; and
- (3) a town cistern on a portion of the lot affects the utility of

that portion of the lot.

The Town argued the property was equitably assessed with other similar property consistent with the methodology used at the time of the last revaluation.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$59,500.

Based on the sale of the property in November 1989 for \$170,000, the board's knowledge of the real estate market at that time, and the Town's 1990 valuation (after a town-wide reassessment) of \$159,400, the Board finds a reasonable estimate of the market value, as of April 1, 1989, was \$175,000. Applying the Town's 1989 equalization ratio of 34 percent, the Board arrives at a proper assessment of \$59,500.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.) We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

If the taxes have been paid, the amount paid on the value in excess of \$59,500 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul Franklin

Ignatius MacLellan, Esq.

I certify that copies of the within decision have been mailed this date, postage prepaid, to David J. and Janice M. Cassin, the Taxpayers, and to the Chairman, Board of Selectmen, Town of New Boston.

March 3, 1992

Melanie J. Ekstrom, Deputy Clerk

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