

Estate of Marlyne W. Lake

v.

Town of Barnstead

Docket No. 6076-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$98,700 (land, \$62,800; buildings, \$35,900) on its real estate on Beauty Hill Road West, Map 5, Lot 13. 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 it was disproportionally taxed.

The Taxpayer's administrator, Atty. John F. Lake, argued the assessment was excessive because the barn, the ell, and the shed "were completely gone," and the value of the improvements--"nil"! The insurance company "totalled" the buildings, and heavy expenses were incurred to remove much of the debris. Mr. Lake lived in a mobile home until December 1989 when three rooms were made livable.

The Town argued the assessment was proper because Mr. Brett Purvis, town assessor, inspected the subject property on July 22, 1989, and found a

good portion of the ell usable and much of the house worth saving. The ell

"represents only 37 percent of the living area, smoke damage was to frame of ell and house," said Mr. Purvis. Mr. Purvis said his estimates of damage were reasonable, given Barnstead's equalized ratio, 56 percent, and a coefficient of dispersion of 28.55.

Based on the evidence, we find the correct assessment should be \$82,800 (land \$62,800 and building \$20,000). This assessment is ordered because, at minimum, the board finds a salvage value in the materials, such as wide pine boards, posts and beams, bricks, foundation stone and steps, which, taken as a whole, on site and in place (two chimneys with four fireplaces), create a significant remainder value, notwithstanding the cost to clear debris. In the trade, appraisers and assessors call this phenomenon "the present worth of future benefits." We find no remainder value in the barn or shed. We leave it to the Town to allocate the \$20,000 improvement value between the ell and the house.

If the taxes have been paid, the amount paid on the value in excess of \$82,800 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

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I certify that copies of the within decision have been mailed this date, postage prepaid, to John F. Lake, Esq., representing the Taxpayer, and to the Chairman, Board of Selectmen, Town of Barnstead.

Brenda L. Tibbetts, Clerk

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