

Richard Nazzaro and Margaret Nazzaro

v.

Town of Jaffrey

Docket No. 6228-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$138,000 (land, \$39,100; buildings, \$98,900) on their real estate, consisting of a dwelling and an improved lot of approximately 3.9 acres on Heath Road Extension (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 the assessment was excessive because: 1) they purchased the property in April, 1989, for \$170,000 when the Town's equalization ratio was 71%; and 2) Heath Road Extension had not been accepted as a town road in 1989.

The Town argued the assessment was proper because: 1) the Taxpayer's "calculated equalization rate" (assessment divided by sale price) was 81%; 2) an analysis of 93 sales occurring in town within six months of the assessment date indicated one standard deviation to range from 49.3% to 94.7%; and 3) the Taxpayer's assessment to sale ratio falls within this range.

Based on the evidence we find the correct assessment should be \$136,450 (land, \$37,550 and building \$98,900). This abatement is ordered to account for Heath Road Extension was not accepted or maintained by the Town on April 1, 1989.

While the Board does not agree with the Town's use of one standard deviation to establish equitable assessing parameters, no further reduction is warranted as this new assessment is within an acceptable range of the median equalization ratio. As the Town did not use the ratio in its assessing methodology, it is not bound to a strict application of the ratio. See Thomas S. Stevens v. City of Lebanon, 122, N.H. (1982).

If the taxes have been paid, the amount paid on the value in excess of \$136,450 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

Paul B. Franklin, Member

Date: September 12, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Richard & Margaret Nazzaro, taxpayers; and the Chairman, Selectmen of Jaffrey.

Brenda L. Tibbetts, Clerk

Date: September 12, 1991

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