

Richard P. Early, Sr. and Dorothy Early
v.
Town of Kingston

Docket No. 6229-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$69,300 (land only) on their real estate identified as R 13, Lot 22, consisting of a vacant lot of 34,848 square feet (the Property). The Taxpayers owned but did not appeal one other property in Kingston. 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) the lot is one-acre when two-acres is the minimum;
- 2) topography is very steep;
- 3) problems with getting driveway permit;
- 4) problems with installing a septic system; and
- 5) abutting toxic dump.

The Town made no presentation.

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 \$14,450 because: 1) topography adjustment; 2) shallowness of lot; and 3) and power easement.

Based on the evidence we find the correct assessment should be \$14,450. This assessment is ordered because the Property was certainly overassessed, and the board inspector's report was the best evidence of value.

If the Taxpayers have paid all their taxes, the amount paid on this property in excess of \$14,450 in value 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 Richard P., Sr. & Dorothy Early, taxpayers; 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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