

Edward L. and Ingrid G. Dorman

v.

Town of Merrimack

Docket No.: 6238-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$144,800 (land \$59,400; buildings \$85,400) on a .87-acre lot with a ranch house (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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the Property is a modular home, and 1/3 of the basement is ledge and wet;
- (2) the house would never have sold for more than \$132,000;
- (3) the garage is just a shell; and
- (4) a January, 1990 appraisal estimates a \$123,000 value, and an August 12, 1989 appraisal estimates a \$138,000 value.

The Town argued the assessment was proper because:

- (1) home was built in 1987, and is has C- grading;
- (2) a comparable property sold in August, 1987 for \$145,000;
- (4) the Taxpayers' appraisal estimates are conservative because the market was beginning its downward trend at the time the appraisals were done;
- (5) the Town used 604 known sales from 1987, 1988 and 1989 and time adjusted the sales to January 1, 1989 and, using multiple-regression analysis, arrived at models to be used in assessing the properties in Town; and
- (6) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$135,000. The assessment is ordered because: (1) some weight is given to the Taxpayers' two appraisals; (2) a review of the Town's comparables and photographs indicates the comparables are generally of superior grade and design; and (3) additional functional obsolescence should be recognized because of a partial basement which cannot be enlarged because of a boulder too large to move or remove economically.

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.)

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If the taxes have been paid, the amount paid on the value in excess of \$135,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Edward L. and Ingrid G. Dorman, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk

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