

Emery F. and Evelyn R. Boose

v.

Town of Sandown

Docket No.: 6243-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$103,100 (land, \$83,400; buildings, \$19,700) on a single family A-frame dwelling on 13,068 square feet of land (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).

The Taxpayers argued the assessment was excessive because:

- (1) there are errors on the Property record card;
- (2) a proper adjustment was not made for the fact that the Property is on a private dirt road;
- (3) rating Property as seasonal is discriminatory, and reduces its value by approximately 20 percent; and
- (4) the market value as of April 1, 1989 is between \$80,000 and \$90,000.

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The Town argued the assessment was proper because:

- (1) the comparable sales utilized support the assessment;
- (2) a revised building assessment of \$17,900 is recommended to correct exterior wall to be graded as single siding, increase depreciation for the year built and to adjust the heating system to reflect that it is not portable;
- (3) a 5 percent adjustment was applied to the land to reflect the fact that it has a wet area and the fact that it is not developed to the same quality as a year-round property; and
- (4) the adjusted value is fair and is supported by the comparable sales.

Based on the evidence, we find the correct assessment should be \$101,300 (land \$83,400 and building \$17,900). The board reluctantly agreed to give the adjustments recommended by the Town. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their burden, the Taxpayers must make a showing of the Property's fair market value. This value will then be compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

If the taxes have been paid, the amount paid on the value in excess of \$101,300 shall be refunded with interest at six percent per annum from date

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paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Emery F. and Evelyn R. Boose, Taxpayers; Chairman, Selectmen of Sandown; and Scott Bartlett, MMC.

Dated: July 29, 1992

Valerie B. Lanigan, Clerk

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