

Carmela M. Baldi

v.

Town of Hampstead

Docket No.: 6269-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$71,300 (land, \$53,900; building, \$17,400) on a 0.10 acre lot with a camp (the Property). The Taxpayers own, but did not appeal, several other properties in the Town. 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) there is inaccurate building information on the tax card (i.e. measurements, finished v. unfinished interior/porches);
- (2) the neighborhood and condition codes on the land are erratic and not

equitable and the smaller the lot, the higher the condition factor;

(3) recent sales of properties in the area indicate the Property is overassessed;

(4) there is no water view from the Property, no useable water (share artesian well with neighbor), and the camp next door is extremely run down and close to the house;

(5) the camp next door was purchased by the Taxpayer through a realtor in October, 1991 for \$10,000 - was on the market for two years and the house was demolished; and

(6) a more accurate assessment for 1989 is \$24,600 (land, \$18,000; building, \$6,600).

The Town argued the assessment was proper because:

(1) the Property is not on the waterfront or have a view to speak of but is close to the water;

(2) an interior inspection of the building was not made but the pictures indicate that the interior is unfinished; and

(3) the condition factor on the land is high and the Town recommends a factor of 1.50 reducing the land value to \$33,000.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$37,500 (land \$27,500 and building \$10,000). This assessment is ordered because the board finds that based on the size of the lot and physical condition of the camp as well as the estimated 500 feet from the water, further adjustments to the land and building are appropriate. Although the subject Property has a deeded right-of-way to the water, there is no designated beach and therefore the value that the right-of-way contributes to the Property is reduced. The board has reduced the land condition factor to 1.25 and finds the value of the

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camp is in the amount of \$10,000.

If the taxes have been paid, the amount paid on the value in excess of \$37,500 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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Carmela M. Baldi, Taxpayer; and Chairman, Selectmen of Hampstead.

Dated: October 7, 1992

Melanie J. Ekstrom, Deputy Clerk

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AMENDED DECISION

The "Taxpayer" by letter dated October 16, 1992, requested clarification of the board's decision dated October 7, 1992, stating there was an error in the second sentence of the first paragraph.

The board therefore amends the second sentence of the first paragraph by deleting, "The Taxpayers own, but did not appeal, several other properties in the Town."

Further, the Taxpayer sought clarification with respect to testimony relative to the neighborhood code and factor.

In its decision, the board reduced the 1989 assessment from \$71,300 to \$37,500 based on the testimony and evidence presented at the hearing. The board's decision incorporated its findings in the board's rulings.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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I hereby certify a copy of the foregoing amended decision has been mailed this date, postage prepaid, to Carmela M. Baldi, Taxpayer; and Chairman, Selectmen of Hampstead.

Dated: November 6, 1992

Melanie J. Ekstrom, Deputy Clerk