

Thomas J. Winn and Gertrude G. Winn (deceased)

v.

Town of Alton

Docket No. 6305-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$127,700 (land, \$31,300; buildings, \$96,400) on Map 28, Lot 52-1, consisting of a .49-acre lot improved with a bi-level home (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

1) the property was purchased for \$100,000 in 1986 and he did not feel that it could be sold in April, 1989, for more than the purchase price; and

2) in comparing his assessment with the Streeter assessment, the Taxpayer indicated that the Streeter assessment is lower and the property has 8,000 square feet more land and 150 feet in the rear to a hill--the Taxpayer has 30 feet to the hill. The Streeter house is larger with a garage and workshop.

The Town argued the assessment was proper because:

1) the subject property was purchased from a builder and a typical brokerage fee at that time was 6.5 percent;

2) although the area behind the subject property is severe, the Streeter property has less desirable land around the home. Most of the value is in the presence of the homesite;

3) a sale of a similar home less than one mile from the subject sold in July, 1987, for \$115,000 (Lot #31-41); and

4) time adjustment for properties sold in January, 1989, is plus 21 percent. Total adjustments to the sale price (including a 6.5-percent brokerage fee) indicate a value of the subject of \$127,500 on April 1, 1989.

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 \$120,750 (land \$27,950 and building \$92,800). The inspector made the following adjustments to the Town's assessment: land--adjusted for rear of building topography as to abutter topography; building--adjusted value of finished basement and finished garage in basement.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$120,750 (land \$27,950 and building \$92,800).

If the taxes have been paid, the amount paid on the value in excess of \$120,750 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

August 6, 1991

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Thomas J. Winn, the Taxpayer, to the Chairman, Board of Selectmen, Town of Alton, and to Scott Bartlett, MMC.

August 6, 1991

Brenda L. Tibbetts, Clerk