

Lucille B. Siemel

v.

Town of Peterborough

Docket No.: 6331-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$161,200 (land, \$55,300; buildings, \$105,900) on a 5.29 acre lot with a one and a half-story house on Greenfield Rd. (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 disproportionality.

The Taxpayer's representative, Thomas C. Siemel, argued the assessment was excessive because:

- (1) an appraisal as of June 1987 for lending purposes estimated the market value at \$143,000;
- (2) the market from the appraisal date of 1987 to April 1989 declined slightly based on information from New Hampshire Board of Realtors and New Hampshire

Housing;

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- (3) the Taxpayer's opinion of market value in 1989 was from \$140,000 to \$145,000;
- (4) the house sets on a slab due to the high water table of the lot;
- (5) the rear exterior of the house was unsided in 1989;
- (6) in 1989 one bath and bedroom were unfinished and would cost approximately \$10,000 to finish;
- (7) the house has electric heat which is not desirable on the market;
- (8) the Taxpayer's neighbor, Paul Morris, has a similar house with a basement and oil heat and yet was assessed for \$142,800.

The Town argued the assessment was proper because:

- (1) the Morris house is smaller than the Taxpayer's house;
- (2) the Taxpayer's appraisal was two years prior to the reassessment date and the Town had sales that showed the market was appreciating at approximately one percent per month during that time period; and
- (3) sales of comparable property were in the \$150,000 to \$160,000 range.

Board's Rulings

At the board's request, a view of the subject property was taken on Thursday, October 15, 1992. Those present included Merton S. Dyer, Selectman; Steven G. Rubeor; Cole-Layer Trumble/Assessor; Thomas C. Sienel, Taxpayer representative; and Philip J. Estey, Board of Tax and Land Appeals review inspector.

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The purpose of the view was to establish what the physical condition was of the Siemel property on April 1, 1989, the tax year under appeal, recognizing that changes have been made after that date.

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Mr. Estey filed a written report with this board and made the following observations:

- the house had electric heat with two wood stoves;
- the barn was remeasured and found to be 12' x 48' (previously shown to be 12' x 24');
- the garage was remeasured and found to be 30' x 26' (previously shown to be 24' x 21');
- the house is 1-3/4 stories (previously shown 1 story);
- the house is set on a cement slab;
- the house had only one bath on 4-1-89;
- all floors unfinished on 4-1-89;
- approximate age of house was 20 years;
- siding is texture "one eleven" and ship lap;
- significant physical and functional obsolescence.

Based on Mr. Estey's observations and the Taxpayer's estimate of fair market value at the hearing, the Board rules the correct 1989 assessed value to be \$145,000. 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.)

If the taxes have been paid, the amount paid on the value in excess of

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\$145,000 shall be refunded to Lucille B. Sienel with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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 Thomas C. Sienel, Representative for Lucille B. Sienel, Taxpayer; and Chairman, Selectmen of Peterborough.

Dated: November 9, 1992

Valerie B. Lanigan, Clerk

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