

Stanley D. Ross and Donna M. Ross

v.

Town of Bristol

Docket No. 6341-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$70,800 on their real estate, consisting of Unit F, a seasonal cottage in condominium form of ownership at Lakeside Village (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 failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. We find the Taxpayers carried this burden and proved they were disproportionately taxed.

The Taxpayers argued:

- (1)the property is assessed higher than it can be sold for;
- (2)an adjacent property, owned by J. Horton, has been for sale for \$48,000 for over one year; and
- (3)a realtor of Greenan Realty of Bristol feels a fair market value is \$60,000.

The Town argued:

- (1)the Taxpayers' site and amenity value was derived from a sale of a unit on the lake by adjusting the lake site value by 80% to reflect the Taxpayers' site not being on the lake; and

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(2) values started to decline in 1989 for this type of property as evidenced by the sale and resale of the Nicosia property for \$110,000 in 1988 and \$88,400 in 1989 and as evidenced by the McCann sale in 1989 for \$64,000 while being assessed at \$88,250.

The Town must annually review its assessments and adjust those that have declined or increased more in value than values generally changed in the Town.

RSA 75:8 states:

The assessors and selectmen shall, in the month of April in each year, examine all the real estate in their respective cities and towns, and shall correct all errors that they find in the then existing appraisal and reappraise all such real estate as has changed in value in the year next preceding ***.

See also, 73:1, 73:10, 74:1, 75:1. As stated in Appeal of Net Realty Holding Trust, 128 N.H. 795, 799 (1986), a fair and proportionate tax can only be achieved through a constant process of correction and adjustment of assessments. In yearly arriving at an assessment, the Town must look at all relevant factors. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975).

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.) We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

Based on the evidence we find the correct assessment should be \$62,300. This assessment is ordered because:

(1) the general level of assessments town-wide as indicated by the 1989 equalization ratio was 103% (i.e.: values had declined town-wide approximately 3% from 1988 to 1989); and

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(2)the sales information submitted by both parties indicates that values for the Taxpayers' type of property was declining 15 to 18 percent per year.

Therefore, the Board rules that the Taxpayers' assessment should be reduced 12 percent to be at a proportional level of assessment with all other property in the Town.

If the taxes have been paid, the amount paid on the value in excess of \$62,300 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Stanley D. Ross and Donna M. Ross, Taxpayers; and Chairman, Selectmen of Bristol.

Melanie J. Ekstrom, Deputy Clerk

Date: January 31, 1992

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