

Douglas A. and Connie L. Lampinen

v.

Town of New Ipswich

Docket No. 6460-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$194,300 (land, \$32,400; buildings, \$161,900) on their real estate on Greenbriar Road, consisting of a dwelling on a 2.1 acre lot (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). We find the Taxpayers carried this burden and proved they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

- (1)contemporary homes were assessed higher than colonial homes;
- (2)the resale value of contemporary homes is not as good as it is for colonials;
- (3)the building assessment exceeded the actual costs, even when the actual costs were adjusted for profit and overhead; and
- (4)a 1989 sales analysis opined a \$160,000-\$180,000 value, which is consistent with the Taxpayers' \$150,000 listing.

The Town argued the assessment was proper because:

- (1)adjustments to the percent of the semi-finished basement makes up for the higher square-foot values on contemporaries;
- (2)the Taxpayers' costs figured did not include architectural fees; and
- (3)the assessment was in line with the Town's comparables.

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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 \$147,100 (land \$32,400; buildings \$114,700). The inspector made the following adjustments to the Town's assessment: "refigured building at average +10 with Marshall & Swift."

Based on the evidence we find the correct assessment should be \$170,000.

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.)

This assessment is ordered because the Taxpayers' appeal was supported by: (1)the Taxpayers' evidence of costs, as supported by the board's inspector's report;

(2)the Taxpayers' sales analyses when linked with the actual listing; and

(3)the Taxpayers' experience of building and selling homes in the area.

If the taxes have been paid, the amount paid on the value in excess of \$170,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Douglas A. and Connie L. Lampinen, taxpayers; and Chairman, Selectmen of New Ipswich, and Scott Bartlett, MMC.

Date: April 9, 1992

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Valerie B. Lanigan, Clerk