

Richard and Jessica Wojtukiewicz

v.

Town of New Ipswich

Docket No. 6461-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$173,600 (land, \$36,900; buildings, \$136,700) on their real estate on Turnpike Road, consisting of a dwelling on a 2.5 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)the original assessment of \$147,200, as noticed by the Town, was based on the classification of the house as a "colonial";
- (2)following the review by the revaluation firm, the assessment was raised based on a reclassification of the house as an "antique"; and
- (3)some commercial uses in the area and the abutting school have a negative effect on the Property's value.

The Town argued:

- (1)the Taxpayers' house does have antique features which would demand a premium in the market; and
- (2)an analysis (Exhibit TN-C) of comparably assessed properties indicates consistent methodology for assessments.

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Based on the evidence we find the correct assessment should be \$153,250 (land, \$30,300 and building \$122,950). This assessment is ordered because:

(1)the board's inspector's report, which gave additional depreciation to the house, was supported by the Taxpayers' testimony as to the condition and utility of the house; and

(2)the evidence does not support the Town's contention that the immediate neighborhood is 25% above average, rather the neighborhood should be classed as average with an influence factor of 100%.

If the taxes have been paid, the amount paid on the value in excess of \$153,250 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 Richard and Jessica Wojtukiewicz, taxpayers; and Chairman, Selectmen of New Ipswich, and Scott Bartlett, MMC.

Valerie B. Lanigan, Clerk

Date: April 9, 1992

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