

Gardner B. Gray and Lynn E. Gray

v.

Town of Deerfield

Docket No. 6482-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$165,100 (land, \$23,600; buildings, \$141,500) on a large, single-family house with a 25.9-acre lot (the Property). The Town and the Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Town and the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. 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 submitted a voluminous amount of material. Unfortunately, much of what was submitted was irrelevant or unpersuasive. Nonetheless, the only other evidence was the Property's 1990 reassessment value of \$328,600.

The Taxpayers argued the assessment was excessive because:

- (1) taxes have increased;
- (2) the assessment increases on the Property during the 80's;
- (3) the assessments on other properties in the 80's were lower than theirs, especially compared with the revaluation assessments by MMC for 1990; and
- (4) the building measurements were wrong.

No arguments were presented by the Town.

Based on the evidence we find the correct assessment should be \$152,000.

In making a decision on value, the board looks at the Property's value as a  
whole

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(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.

The revised assessment is ordered solely because the 1990 revaluation assessment (\$328,600) indicates the 1989 equalized value (\$434,475) was excessive. Thus, the board has attempted to bring the 1989 assessment within an acceptable range by using the board's knowledge of the declining market from 1989-1990 and trending the 1990 reassessment to 1989 values. The board also considered the Property's superior quality and large lot.

Aside from the error on the building square-footage, the Taxpayers did not submit any helpful documentation or information. The bulk of the Taxpayers' arguments focused on the under assessment of other properties. The underassessment of other properties does not prove the overassessment of the Taxpayers' Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). Further, the Taxpayers did not submit any evidence of the Property's fair market value in 1989. The Taxpayers may have intended to use the other properties as comparables. If so, the Taxpayers did not organize the material or present any charts or photographs to allow the board to draw any conclusions. It is the Taxpayers' job and burden to organize and present the case.

Concerning the increasing taxes, a greater percentage increase in an assessment or increasing taxes are not grounds for an abatement.

If the taxes have been paid, the amount paid on the value in excess of \$152,000 shall be refunded with interest at six percent per annum from date paid to refund date.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Member

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Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gardner B. Gray and Lynn E. Gray, taxpayers; and Chairman, Selectmen of Deerfield.

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Melanie J. Ekstrom, Deputy Clerk

Date: March 5, 1992

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