

William H. and Jayne B. Crucius

v.

Town of Atkinson

Docket No.: 6666-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$127,100 (land, \$95,200; buildings, \$31,900) on a camp on Sheep Island (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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the building is only a seasonal camp;
- (2) the land was overvalued because it's only accessible 6 months a year;
- (3) it has ledge, and marshy shore on two sides;
- (4) the assessment exceeds the value; and
- (5) taxes increased due to assessment increase following revaluation.

The Town argued the assessment was proper because:

- (1) it was arrived at by the revaluation company, using the same analysis used in the Town;
- (2) the two sales on the island support the assessment;
- (3) all shore owners have problems with water level drop, etc.

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 \$103,300. The inspector made the following adjustments to the Town's assessment, reduced land by 25% because of island problems.

Based on the evidence, we find the correct assessment should be \$118,445 (land \$86,545; extra features \$3,400 and building \$28,500). This assessment is ordered because:

- (1) Taxpayers' main burden is to demonstrate the Property's fair market value on April 1, 1989, which they failed to do;
- (2) nonetheless, the board has sufficient concerns about the Town's assessment on the Property to warrant an adjustment;
- (3) the sales of Lots #80 and #81 lend credence to the assessment but these properties had condition factors of 1.45;
- (4) the Property, with its marshy shore and ledge had a condition factor of 2.75; and
- (5) we reduced the condition factor to 2.5, resulting in the adjusted land assessment.

If the taxes have been paid, the amount paid on the value in excess of \$118,445 shall be refunded with interest at six percent per annum from date

paid to refund date. RSA 76:17-a.

William H. and Jayne B. Crucius v. Town of Atkinson
Docket No. 6666-89
Page 3

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William H. & Jayne B. Crucius, Taxpayers; and Chairman, Selectmen of Atkinson.

Dated: May 5, 1992

Valerie B. Lanigan, Clerk

0007