

Peter J. and Phyllis M. Onksen
v.
Town of Candia

Docket No. 6669-89 and 10224-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$132,850 (land, \$22,000; buildings, \$110,850) on their real estate, consisting of a dwelling, garage and horse stable and riding arena on 9.26 acres on New Boston Road (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 disproportionately taxed.

The Taxpayers argued the assessment was excessive because the change in assessment from 1987 to 1989 on the horse stable was excessive relative to the improvements made between 1987 and 1989.

The Town argued the assessment was proper because it used the same manual in assessing the horse barn as was used in the Town's 1982 revaluation, and the increases from 1987-1989 were based on the status of the barn as of April 1 for each year.

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 \$113,250 (\$22,000 land -- no adjustments; \$91,250 -- adjusted horse barn). The report was reviewed by the parties at the hearing.

Docket No. 6669-89 and 10224-90

Peter J. and Phyllis M. Onksen

v. Town of Candia

Page 2

Based on the evidence, including the board inspector's report, we find the correct assessment should be \$113,250 (land, \$22,000 and building \$91,250).

This assessment is ordered because:

- (1)the Taxpayers demonstrated the horse barn, from start to finish, cost \$220,000;
- (2)the Town's equalized value on the horse barn (before depreciation) was \$310,000; and
- (3)the board inspector segregated the costs between the horse stables and arena area, resulting in a figure much closer to the Taxpayers' costs.

If the taxes have been paid, the amount paid on the value in excess of \$113,250 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, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Peter J. Onksen and Phyllis M. Onksen, taxpayers; and Chairman, Selectmen of Candia.

Melanie J. Ekstrom, Deputy Clerk

Date: February 28, 1992

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