

Ernest Corbett and Ruth Corbett

v.

Town of Dunbarton

Docket No.: 6675-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$164,600 (land, \$32,200; buildings, \$132,400) on a single family dwelling on 4.41 acres located on Rt. 13 (the Property). The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) a grade 5 rating of the home, of wood and frame construction, built in 1985, is possibly the highest level in the entire Town;
- (2) the land was purchased unimproved for \$28,000 in 1984 and a well and septic were added at approximately \$10,000; and

(3) a comparable sale in 1989 in the vicinity sold for \$55,000.

Other arguments raised by the Taxpayers concerned values for the 1990 tax year which is not under appeal.

The Town argued the assessment was proper because:

- (1) a survey in 1988 corrected the frontage and acreage of the Property;
- (2) the Taxpayers purchased the land for \$28,000 in 1984 and the 1989 assessment of \$32,000 for the land is where it should stand;
- (3) the Town has assessed for the chain link fence;
- (4) the house is extremely well built, in excellent condition with about 25 percent of the basement heated and properly assessed as Class 5;
- (5) from the middle of 1989 to 1990, the market was flat; and
- (6) the house has been on the market for \$289,000 but hasn't sold yet.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the following: "4/1/89 adjust \$164,600 to 1990 adjusted value \$235,750."

Based on the evidence, we find the correct assessment should be \$108,445 (land \$49,450 and building \$58,995). This assessment is ordered because the 1990 revaluation assessment of \$235,750 indicates the 1989 equalized value (\$357,826) was excessive. Further, the Town testified that the market was flat from mid-1989 to 1990 indicating that the Property was overassessed.

If the taxes have been paid, the amount paid on the value in excess of

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\$108,445 shall be refunded with interest at six percent per annum from date
paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this
date, postage prepaid, to Ernest and Ruth Corbett, taxpayers; and Chairman,
Selectmen of Dunbarton.

Dated: April 22, 1992

Valerie B. Lanigan, Clerk