

Glenn and Joan Demers

v.

City of Franklin

Docket No.: 6677-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 assessment of \$83,500 (land, \$35,600; buildings, \$47,900) on their real estate at 307 Webster Avenue, consisting of a camp on a 3,750 square foot 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the subject property is a 50 foot by 70 foot lot across the street from the lake (partial view);
- (2) it was built in 1910 (no foundation) with a poorly constructed garage;
- (3) the value should be mid-sixties;

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- (4) the condition of the Property is not as good as the City assessment would indicate;
- (5) the quality should be "average" not "plus 20";
- (6) the fireplace was built in 1910;
- (7) the attic is sloped roof loft space; and
- (8) there is an apparent inequity in garage values (\$13.00-\$16.00/square foot).

The City argued the assessment was proper because:

- (1) waterview comparables were used, (Miller the best), lot sizes are the same;
- (2) the subject property improvements are larger (no heat in Miller property);
- (3) the subject property has a garage (Miller does not);
- (4) the assessment is fair ("perhaps more depreciation could be applied. I have not inspected interior"); and
- (5) the subject property is a better than typical seasonal camp.

Based on the evidence, we find the correct assessment should be \$77,700 (land \$35,600 and building \$42,100). This assessment is ordered because the board finds additional physical depreciation is warranted based on the testimony of the Taxpayer. The City's representative, Mr. Scott Bartlett, was unable to inspect the interior of the cottage and acknowledged the possibility of greater depreciation than has been applied.

If the taxes have been paid, the amount paid on the value in excess of \$77,700 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Glenn and Joan Demers, Taxpayers; Chairman, Board of Assessors of Franklin; and Scott Bartlett, MMC.

Dated: July 27, 1992

Valerie B. Lanigan, Clerk

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