

Gregory Williams and Belle Williams
v.
Town of New Hampton
Docket Nos. 6698-89 and 8508-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$84,400 (land, \$25,150; buildings, \$59,250) on a single-family residence on 2.86 acres of land located in Winona Heights (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 assessments were excessive because:

- 1) the Property was purchased on March 1, 1989, for \$151,300;
- 2) the realtor, Rosemary Uicker, who sold the Property, indicated that the sale was a fair and equitable transaction considering the economic climate and market conditions at the time of the sale;
- 3) the Town's equalization ratio of 33 percent for 1989 indicates a 1989

fair-market value of \$255,750, and the equalization ratio of 43 percent for 1990 indicates a 1990 fair market value of \$196,279;

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4) understanding that the equalization ratio is not a solid tool to valuing property, in a town like New Hampton there are not as many variables, suggesting that the ratio would be more effective;

5) in 1991, the Department of Revenue Administration revalued the entire town to bring the equalization ratio to 100 percent of fair market value and the assessed value on this property as of April 1, 1991, is \$156,600, which is a fair assessment;

6) there is no comparison between the subject Property and the Town's comparable (Frederico) as the Frederico property, although a smaller lot, offers a panoramic view of the surrounding mountains; and

7) the assessed value as of April 1, 1989, and April 1, 1990, should be \$66,000.

The Town argued the assessment was proper because:

1) the equalization ratio has little meaning in most towns due to land sales driving the ratio down;

2) the subject's building was built to capture the same view directly across the street;

3) an appraisal of a comparable property (Frederico) by Wayne Yale as of July 29, 1989, indicated a fair market value of \$250,000, and the sale of the

Frederico property on November 21, 1991, for \$197,500 supports the assessment;
and

4) the Property was purchased at a low price because the seller was distraught with the taxes and was anxious to sell.

Based on the evidence, we find the correct assessment should be \$76,250 (land \$17,000 and building \$59,250). This assessment is ordered because the board feels a more proportional assessment would be arrived at by appraising the land consistent with other lots in the area with the narrow portion of the lot being calculated as the frontage, which results in \$13,900; and a more reasonable assessment for paving is \$600, and for water and sewer is \$2,500.

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If the taxes have been paid, the amount paid on the value in excess of \$76,250 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

I certify that copies of the within decision have been mailed this date, postage prepaid, to Christopher Kelley, representing the Taxpayers, and to the Chairman, Board of Selectmen, Town of New Hampton.

Dated: August 25, 1992

Valerie B. Lanigan, Clerk

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