

**Stanley D. and Terry Penny**

**v.**

**Town of Candia**

**Docket No. 6716-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$83,950 (land, \$14,600; buildings, \$69,350) on their real estate, consisting of a dwelling on a 3 acre lot on North 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 disproportionally taxed.

The Taxpayers argued:

- (1) their costs to build the house and purchase the lot in 1985 to 1987 were approximately \$75,000 to \$79,000;
- (2) their lot was marginally buildable to begin with due to ledge and even after being developed the unimproved areas are of little value; and
- (3) the property was listed starting in July 1990 for \$146,700.

The Town submitted six sales used during the 1982 revaluation to establish the base values; and the same methodology was used to appraise the Taxpayers' property as was used throughout the Town.

Based on the evidence we find the correct assessment should be \$70,400. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the

value

Docket No. 6716-89

Stanley D. and Terry Penny

v. Town of Candia

Page 3

between land and building, and the Town shall make this allocation in accordance with its assessing practices.) We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

This assessment is ordered because:

- (1)neither party submitted any comparable sales data relevant to the 1989 tax year; and
- (2)based upon the evidence, including the description of the Property, and the Board's experience, the Property had a market value of approximately \$160,000 which equalized by the Town's 1989 ratio equates to an assessment of \$70,400.

If the taxes have been paid, the amount paid on the value in excess of \$70,400 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 Stanley D. and Terry Penny, taxpayers; and Chairman, Selectmen of Candia.

---

Melanie J. Ekstrom, Deputy Clerk

Date: February 13, 1992

Docket No. 6716-89

Stanley D. and Terry Penny

v. Town of Candia

Page 4

0007