

Linda M. and Clayton J. Pease, Jr.

v.

Town of Boscawen

Docket No.: 6868-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$116,700 (land, \$31,400; buildings, \$85,300) on their real estate, consisting of a dwelling, camp and garage on a 1.68 lot at 11 Baker Street (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 value in 1989 was \$97,500 based upon their purchase price in 1985 plus appreciation and based upon an opinion of value by Keeler Family Realtors; and
- (2) only three-quarters of an acre of the lot is usable due to a large gully on

the rear of the lot.

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The Town argued the assessment was proper because:

- (1) no additional factor was applied to the land for the second dwelling on the lot; and
- (2) real estate was still appreciating at 12 percent for 1989 and was level in 1990.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$110,865 (land \$29,830 and building \$81,035).

This assessment is ordered because the Board of Tax and Land Appeals concurs with the recommendation of its review inspector that a minus 5% adjustment should be made to the house for age and condition and the land should be reduced to \$29,830 to recognize the topographic problems (gully).

If the taxes have been paid, the amount paid on the value in excess of \$110,865 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

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 Linda M. and Clayton J. Pease, Jr., taxpayers; and Chairman, Selectmen of Boscawen.

Dated: June 24, 1992

Valerie B. Lanigan, Clerk

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