

Edward S. and Sally E. Ferguson

v.

Town of Derry

Docket No.: 6931-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$161,400 (land, \$57,300; buildings, \$104,100) on a single family residence on 0.55 acres of land on Arrowhead 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the Property was listed for sale at \$175,000 in the spring of 1988, and no one looked at it for the year it was on the market;
- (2) a market analysis was prepared by a real estate appraiser to arrive at the asking price of \$175,000;

Edward P. and Sally E. Ferguson

v. Town of Derry

Docket No.: 6931-89

Page 2

(3) properties in the neighborhood were all built at approximately the same time and although they are not all of the same style, they are comparable in square footage, therefore they should be assessed comparably; and

(4) a fair assessed value would be \$147,800 (land \$57,300; building \$90,500).

The Town submitted an appraisal report which included estimates of value by the cost and market approaches and an assessment comparison of comparable properties.

The Town argued the assessment was proper because:

- (1) the market analysis demonstrates the assessment is a reasonable estimation of what the Property would have sold for on April 1, 1989, and if anything the assessment falls on the low end of the range; and
- (2) the house was appraised as a two story gambrel because the pitch of the roof is sufficient enough to sell as a two story home.

Based on the evidence, we find the correct assessment should be \$156,300 (land \$57,300 and building \$99,000). This assessment is ordered because a 5 percent non-curable functional depreciation to the building is warranted for the lack of full utility of the second floor due to its gambrel roof style.

If the taxes have been paid, the amount paid on the value in excess of \$156,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Edward P. and Sally E. Ferguson

v. Town of Derry

Docket No.: 6931-89

Page 3

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 Edward S. and Sally E. Ferguson, taxpayers; and Chairman, Selectmen of Derry.

Dated: June 24, 1992

\_\_\_\_\_  
Valerie B. Lanigan, Clerk

0007