

Dubravko M. and Ann Jean Kuftinec

v.

Town of Northwood

Docket No.: 7017-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$100,200 (land, \$72,350; buildings, \$27,850) and \$221,700 (land, \$160,750; buildings, \$60,950) on Map 25A Lots 16, 17 & 18 and Map 25A Lots 2, 3 & 4, respectively. Lots 16, 17 & 18 consist of a seasonal cottage on .19 acres on Pleasant View Avenue while Lots 2, 3 & 4 consist of a dwelling on .4 acres on Northwood Lake (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.

Dubravko M. and Ann Jean Kuftinec

v. Town of Northwood

Docket No.: 7017-89

Page 2

The Taxpayers argued the assessment was excessive because:

Lots 2, 3 & 4

- (1) the Property was purchase in 1968 for \$24,000, was built in 1945 and has old fixtures and cardboard wall paneling;
- (2) the Property is taxed as being on a public road but the road is poorly maintained by the Town;
- (3) in 1987 and 1988, realtors indicated they would be lucky to get \$160,000 for the Property; and
- (4) Town taxes went up 5 to 6 percent but their tax share went up by more than 50 percent.

Lots 16, 17 & 18

- (1) the Property has no official access to anything except a 20 foot right-of-way;
- (2) the Property was on the market in 1987 for over a year and only one offer was received which was for \$75,000 if they provided the mortgage; and
- (3) the valuation is grossly excessive.

The Town presented two waterfront comparables and two non-waterfront comparables and argued:

Lots 2, 3 & 4

- (1) this is a waterfront lot with a Town beach located nearby;
- (2) Town would have no objection to a 15 percent physical depreciation to

Dubravko M. and Ann Jean Kuftinec

v. Town of Northwood

Docket No.: 7017-89

Page 3

buildings as recommended by the Board's review inspector;

(3) the land portion is comparably assessed; and

Dubravko M. and Ann Jean Kuftinec

v. Town of Northwood

Docket No.: 7017-89

Page 4

(4) no appraisal was submitted to substantiate the values derived by the Taxpayers' appraiser.

Lots 16, 17 & 18

- (1) the Property was assessed in the same manner as other properties;
- (2) access to the Property is a "little bit rough"; and
- (3) no changes are needed.

The Taxpayers complained about the high amount of taxes they must pay. The amount of property taxes paid by the Taxpayers was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 120 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

The board's inspector inspected the Property, reviewed the property tax cards, and filed a report with the board. This report concluded the following:

Lots 2, 3 & 4

Dubravko M. and Ann Jean Kuftinec

v. Town of Northwood

Docket No.: 7017-89

Page 5

4/1/89 Adjusted physical depreciation as to age and condition of building. No change in adjusted land value.

Dubravko M. and Ann Jean Kuftinec

v. Town of Northwood

Docket No.: 7017-89

Page 6

Lots 16, 17 & 18

4/1/89 No change in value.

Based on the evidence, we find the correct assessment for Lots 2, 3 & 4 should be \$199,600 (land \$148,750 and buildings \$50,850). This assessment is ordered because:

- (1) the Town agrees with the board inspector's report adjusting the physical depreciation on the buildings;
 - (2) a 5 percent topography adjustment for the shape of the land is warranted;
- and
- (3) a 5 percent adjustment for access is warranted.

The board finds the correct assessment for Lots 16, 17 & 18 should be \$87,000 (land \$65,800 and building \$21,200). This assessment is ordered because adjustments are warranted as follows:

- (1) a 30 percent physical depreciation on the house;
- (2) adjusted value of the chain link fence to \$900; and
- (3) a 10 percent adjustment for access.

If the taxes have been paid, the amount paid on the value in excess of \$286,600 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Dubravko M. and Ann Jean Kuftinec

v. Town of Northwood

Docket No.: 7017-89

Page 7

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 Dubravko M. & Ann Jean Kuftinec, Taxpayers; Chairman, Selectmen of Northwood; and Mary E. Pinkham, Department of Revenue Administration.

Dated:

Valerie B. Lanigan, Clerk

0007