

Bart and Cheryl Cushing

v.

Town of Gilsum

Docket No.: 7178-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$111,250 (land, \$15,300; buildings, \$95,950) on a 16.2 acre lot (14 acres in current use) with a gambrel home (the Property). The Town and Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the parties were not defaulted. This decision is based on the evidence submitted to the board. 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 only stated that their assessment was unfair without giving any specifics.

The Town submitted only a copy of the assessment record card.

Board's Rulings

Normally, without any specific reasons given by the Taxpayers for the appeal, the board would rule that the Taxpayers failed in their burden of proof and deny the appeal. However, in this case, the board's investigator filed a report and some photographs that show the Town's assessment is clearly

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excessive. Under the board's authority in RSA 76:16-a to make such orders "as justice requires", equity requires the board's experience, technical competence, and specialized knowledge be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

Therefore, based on the board's investigator's report, the board finds the grade of the log house should be reduced 10% so as to be approximately equivalent to a grade 3 1/2 frame house, seven percent additional functional depreciation applied to the house for the second floor not being entirely usable due to the gambrel roof design, 15 percent additional functional depreciation applied to the garage for its size and utility and 20 percent additional depreciation applied to the tower for its limited market contribution.

Based on these adjustments, we find the correct assessment should be \$94,650 (land, \$15,300; buildings, \$79,350).

If the taxes have been paid, the amount paid on the value in excess of \$94,650 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

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Bart and Cheryl Cushing, Taxpayers; and Chairman, Selectmen of Gilsum.

Dated: October 7, 1992

Melanie J. Ekstrom, Deputy Clerk

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