

Edward J. Desautels and Martine M. Desautels

v.

Town of Greenville

Docket No. 7262-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$127,900 (land, \$24,300; buildings, \$103,600) on Rousseau Heights, consisting of a modular home on 10,018.80 square feet (the Property).

The Town failed to appear, but consistent with our Rule, TAX 102.03(g), the Town was not defaulted. This decision is based on the evidence presented 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 they were disproportionately taxed.

The Taxpayers argued the assessment was excessive because:

1) the Property consists of a mobile home on a 100 x 100 foot piece of land on a slope;

2) the Taxpayers purchased the land for \$27,000 and the cost of the home and foundation, which was completed in February, 1988, was \$72,000; and

3) an appraisal performed by John Dionne of Property Financial Services estimated the Property's value as of April 5, 1989, to be \$109,000.

The Town failed to appear and presented no written evidence.

The Board's inspector inspected the Property, reviewed the Property tax card and filed a report with the Board. This report concluded the Town had

incorrectly measured the size of the home (actually 27 x 52 feet) and the appraiser rated the modular home average -5 and made the appropriate adjustments.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$103,100 (land, \$24,300 and building \$78,800).

This assessment is ordered because the board accepts the Taxpayers testimony as confirmed by the board's inspector.

If the taxes have been paid, the amount paid on the value in excess of \$103,100 shall be refunded with interest at six percent per annum from date paid to refund date.

The board must comment on the Town's failure to appear and failure to submit any documents whatsoever to support the assessment. The board must review individual property assessments within the context of the assessments generally in the Town. The board cannot do this if the Town does not appear or submit supporting material. Additionally, all of the Taxpayers from the Town who appeared at the hearings testified the Town had had minimal or no contact with them during the process. This dereliction has hopefully stopped, given the mandate in RSA 76:16 II that requires towns to review assessments, which became effective last year.

This board may also award costs as in the superior court. RSA 71-B:9; TAX 201.05(c). Based on the Town's failure as discussed above, the board orders the Town to pay the Taxpayers filing fee of \$40.00.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Edward & Martine Desautels, taxpayer; and the Chairman, Selectmen of Greenville.

Melanie J. Ekstrom, Deputy Clerk

Date: March 4, 1992

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