

Robert M. Brown and Dorothy E. Brown

v.

Town of Kingston

Docket No. 7269-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$218,800 (land, \$76,200; buildings, \$142,600) on their real estate, consisting of a dwelling on a 1.84 acre lot at 1 Jericho 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 they were disproportionally taxed.

The Taxpayers argued:

- (1) a drainage condition across a corner of the lot cannot be corrected and limits the utility of the lot;
- (2) larger lots are assessed at lower rates; and
- (3) two acre lots are selling for \$50,000 to \$60,000.

The Town submitted photos of the subject Property, a spreadsheet comparing the Taxpayers' Property to six comparables, and copies of the six comparable assessment record cards.

The Town argued:

- (1) the Taxpayers' lot is developed and thus is not comparable to the value of raw lots; and

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(2)the Town's 10 to 20 percent adjustment for site improvements to undeveloped lots (e.g. excavation, backfilling and grading, drives, septic, water supply, etc.) usually accounts for the \$15,000 to \$20,000 difference in value between undeveloped and developed lots.

Based upon the Taxpayers' evidence of the stream through a portion of the lot, the Town recommended a 5 percent adjustment to the homesite calculation of the land value.

Based on the evidence we find the correct assessment should be \$215,150 (land, \$72,550 and building \$142,600). This assessment is ordered based upon the Taxpayers' evidence of the stream and the Town's recommended 5 percent adjustment to the home site value.

If the taxes have been paid, the amount paid on the value in excess of \$215,150 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert M. Brown and Dorothy E. Brown, taxpayers; Chairman, Selectmen of Kingston, and Scott W. Bartlett, Appraiser for M.M.C., Inc..

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Melanie J. Ekstrom, Deputy Clerk

Date: February 21, 1992

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