

**Patsy and Josephine DeFrancesco**

**v.**

**Town of Epping**

**Docket No.: 7349-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$213,700 (land, \$49,900; buildings, \$163,800) on a 1.23-acre lot with a 2-story duplex (the Property). For the reasons stated below, the appeal for abatement is granted to the Town's recommendation of \$211,000.

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).

The Taxpayers argued the assessment was excessive because:

- (1) it was increased excessively when they added a garage and the Property was reinspected;
- (2) it exceeds value by \$20,000, being only worth what was paid for the Property;
- (3) only a small amount of the land is developed;
- (4) it mistakenly includes two porches when there is only one porch; and
- (5) the taxes are high.

Patsy and Josephine DeFrancesco

v. Town of Epping

Docket No.: 7349-89

Page 2

The Town agreed to adjust the garage to \$8,600 (-\$2,700), resulting in an assessment of \$211,000.

The Town argued the adjusted assessment was proper because:

- (1) it was set consistent with other assessments; and
- (2) it was reviewed by the Town's pick-up assessor.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$211,000 as recommended by the Town.

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, 126 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 Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a

Patsy and Josephine DeFrancesco

v. Town of Epping

Docket No.: 7349-89

Page 3

showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796

Patsy and Josephine DeFrancesco

v. Town of Epping

Docket No.: 7349-89

Page 4

(1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. The Taxpayers testified the total cost for all land, site work and buildings was \$191,000, with most costs incurred in 1987. Certainly, values increased from 1987 to 1989 by at least 10%.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded, "no change as adjusted."

If the taxes have been paid, the amount paid on the value in excess of \$211,000 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

---

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Patsy and Josephine DeFrancesco, Taxpayers; and Chairman, Selectmen of Epping.

Patsy and Josephine DeFrancesco

v. Town of Epping

Docket No.: 7349-89

Page 5

Dated: November 8, 1992

---

Valerie B. Lanigan, Clerk

0007