

**John L. Pfeiffer and Barbara G. Pfeiffer**

**v.**

**Town of Deerfield**

**Docket No. 7432-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$88,600 (land, \$14,300; buildings, \$74,300) on a single-family house with a 5.3-acre lot (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 disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

- (1)the building assessment is excessive given the building's layout and condition;
- (2)two 1990 sales analyses estimated the Property's sales value at \$130,000 - \$150,000; and
- (3)it was excessive compared to the assessments on other nearby properties.

No arguments or evidence were presented by the Town.

Based on the evidence we find the correct assessment should be \$68,300. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the

value

Docket No. 7432-89

John L. and Barbara G. Pfeiffer

v. Town of Deerfield

Page 3

between land and building, and the Town shall make this allocation in accordance with its assessing practices.) This assessment is ordered because the Taxpayers' evidence established additional depreciation was required for the Property's layout (-5%) and condition (-20%). The assessment was in far excess to the sales analyses and the Property's 1990 revaluation assessment.

If the taxes have been paid, the amount paid on the value in excess of \$68,300 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 testified the Town had had minimal or no contact with them during the procedure. 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' costs of \$81.14 (filing fee \$40.00, mileage \$7.14, copies \$20.00, and photographs \$14.00).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

Docket No. 7432-89

John L. and Barbara G. Pfeiffer

v. Town of Deerfield

Page 4

I certify that copies of the within Decision have this date been mailed, postage prepaid, to John L. Pfeiffer and Barbara G. Pfeiffer, taxpayers; and Chairman, Selectmen of Deerfield.

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Melanie J. Ekstrom, Deputy Clerk

Date: March 5, 1992

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