

Robert E. Benoit and Alyce C. Benoit
v.
Town of Deerfield

Docket No. 7433-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$97,500 (land, \$12,200; buildings, \$85,300) on a single-family house on a 3.3-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 assessment far exceeds the Property's January 1988 purchase price of \$200,000;
- (2)the Property's value declined by 5% from 1988-1989 (the Taxpayer, Mr. Benoit, being a banker was knowledgeable about property values); and
- (3)the 1990 Town revaluation was \$182,800.

No arguments or evidence were presented by the Town.

Based on the evidence, we find the correct assessment should be \$79,420.

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

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between land and building, and the Town shall make this allocation in accordance with its assessing practices.) This assessment is ordered because the Taxpayers' 1988 purchase price, adjusted by +10% to get the 1987 contract price to 1988, and adjusted by -5% to get to 1989, and the Town's 1990 revaluation assessment, established overassessment.

If the taxes have been paid, the amount paid on the value in excess of \$79,420 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 \$47.14 (filing fee \$40.00, mileage \$7.14).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert E. Benoit and Alyce C. Benoit, taxpayers; and Chairman, Selectmen of Deerfield.

Melanie J. Ekstrom, Deputy Clerk

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Date: March 5, 1992

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