

Dave W. and Lorraine M. White

v.

Town of Fitzwilliam

Docket No. 7439-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$208,100 (land, \$132,000; buildings, \$76,100) on their real estate, consisting of a dwelling, cabin, garage and shed on a 3/4 acre lot on Keene Avenue (the Property). For the reasons stated below, the appeal for abatement is granted. The Taxpayers owned three other parcels in Fitzwilliam that were not appealed.

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 "lower camp" is a log cabin, built by hand on a rock foundation; the building is leaning to one side approximately 6 inches; the floor is uneven; the logs holding the building are rotting and the fireplace is sinking into the ground; there is no shower, only a toilet and sink;
- (2)the "log cabin" was built in 1948, is partially on a poured foundation which water has caused to erode; the only fireplace is not useable due to settling; the garage is only used as a shed because of its poor condition; and the shed is only a roof from the house to the garage and is in poor shape and condition in comparison to other comparables; and
- (3)the Town has considered the "log cabin" to be a Class III camp and it is not comparable to other Class III camps.

The Town argued the assessment was proper because:

- (1)the "lower camp" is consistently assessed when comparing square foot prices of the comparables;
- (2)the "log cabin" was properly appraised as a Class III home based on an inspection in 1989;
- (3)log homes typically don't have drywall in the interior and are considered somewhat more desirable than stick built cabins; and
- (4)increased depreciation may be warranted for the condition of the shed and suggests a reduction of \$1,000 for an assessed value of the shed of \$750.

The board's inspector inspected the Property, reviewed the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$179,650 (land \$132,000; buildings \$47,650).

Based on the evidence, including the board inspector's report, we find the correct assessment should be \$182,150 (land \$132,000 and building \$50,150).

This assessment is ordered because the board concurs with its inspector's reduction of 45 percent physical depreciation to the "log cabin" and 50 percent depreciation to the "lower camp". Further, the board has made an adjustment of 45 percent physical depreciation to the garage to arrive at an assessment of \$1,900 and has assigned a value of \$400 for the poor condition of the shed.

If the taxes have been paid, the amount paid on the value in excess of \$182,150 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Dave W. and Lorraine M. White, Taxpayers; and Chairman, Selectmen of Fitzwilliam.

Melanie J. Ekstrom, Deputy Clerk

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Date: February 28, 1992

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