

**Paul Waterman and Helen M. Waterman**

**v.**

**Town of Peterborough**

**Docket No.: 7476-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$142,000 (land, \$46,500; buildings, \$95,500) on Map U-18, Lot 9, a 0.30 acre lot with an old-style house located at 40 Pine Street (the Property). Map U-18, Lot 6, a 0.920 acre lot with a cape-cod style house located on 32 Pine Street was also appealed by the Taxpayers and withdrawn at the hearing. 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) they purchased the Property on July 7, 1987 for \$110,000;
- (2) a stream runs under the barn;

- (3) the barn is not only unusable, but will have to be torn down . . . a liability to the value of the house and land;
- (4) the physical condition of the Property is poor; and
- (5) the extra apartment would be expensive to remove and remodel.

The Town argued the assessment was proper because:

- (1) property values increased from 1987 to 1989;
- (2) no value was put on the barn; and
- (3) no premium was assigned for the extra apartment.

**Board's Rulings**

Based on the evidence, we find the correct assessment should be \$127,800. This assessment is ordered because the Town's representative from Cole-Layer-Trumble Company, Mr. E. S. Hardt, concurred that an adjustment should have been made for the negative impact of the decomposing barn on the remainder of the Property. Mr. Hardt suggested a reasonable figure might be \$14,000, which resulted from a 10% adjustment for economic depreciation to the Property caused by the barn's influence.

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 between land and building, and the municipality shall make this allocation in accordance with its assessing practices.)

If and when the barn is removed from the Property, the new assessment

should be reviewed.

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If the taxes have been paid, the amount paid on the value in excess of \$127,800 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

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Paul and Helen M. Waterman, Taxpayers; and Chairman, Selectmen of Peterborough.

Dated: August 26, 1993

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Valerie B. Lanigan, Clerk