

Thomas G. and Rita A. Enright

v.

Town of Derry

Docket Nos.: 7508-89 and 8790-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$109,200 (land, \$82,600; buildings, \$26,600) on a seasonal camp with a .179-acre lot (the Property). 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) the land assessment was higher per square foot than the abutting property;
and
- (2) an April, 1992 appraisal estimated a \$70,000 value.

The Town argued the assessment was proper because it would be improper to use the Yacht Club property as an assessment comparable when the Yacht Club lot is subject to certain requirements that the Property is not subject to, e.g. undivided common interest (Club) versus fee (Property; and non-profit

Thomas G. and Rita A. Enright

v. Town of Derry

Docket Nos.: 7508-89 and 8790-90

Page 2

(Club) versus private (Property). The Taxpayers and the Town acknowledged there were no sales on any Derry lakes.

Based on the evidence, we find the correct assessment should be \$95,000.

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 Town shall make this allocation in accordance with its assessing practices.) The board's judgment as supported by the Taxpayers' time adjusted appraisal showed the Property was overassessed.

If the taxes have been paid, the amount paid on the value in excess of \$95,000 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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas G. and Rita A. Enright, taxpayers; and Chairman, Selectmen of Derry.

Dated: June 17, 1992

Thomas G. and Rita A. Enright

v. Town of Derry

Docket Nos.: 7508-89 and 8790-90

Page 3

Valerie B. Lanigan, Clerk

0007