

Nancy Boyer

v.

Town of Loudon

Docket No.: 7512-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$221,900 (land, \$44,100; buildings, \$177,800) on Plateau Ridge Road (the Property).

The Taxpayer argued:

- (1) the assessment was excessive because the Town used the incorrect square footage on one room, which the Town was derelict in correcting; and
- (2) the Town only paid interest on the abatement from the date paid to the date the Town credited the Taxpayer's 1990 tax bill.

The Town argued:

- (1) the assessment was proper because an adjustment was made to correct the square footage; and
- (2) the Town has a policy of issuing credits rather than refunds.

The parties agreed the \$221,900 assessment was acceptable, provided the Town corrected the square-footage error. The Town stated the correction was made, and the Taxpayer did not show it was not made. Therefore, the sole

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issue is whether the Town erred in crediting the abatement to the 1990 tax bill rather than issuing a refund check. The board rules the Town erred. RSA 76:17-a uses the term "refund" of abated taxes, not "credit." Therefore, the Town should have issued an abatement check with interest to the Taxpayer. Since almost two years have passed since the error, the board is hard-pressed to order an abatement check be issued because this would result in the Taxpayer's underpayment of the 1990 taxes and the Town then claiming interest on the unpaid amount. Therefore, the Town shall issue an interest only check on the credited amount with interest calculated at 6% from the date the 1989 taxes were paid until the credit date.

Because the Town failed to timely correct the errors on the card and erred in following RSA 76:17, the board is awarding the Taxpayer its \$40.00 filing fee. Whenever the board grants an appeal because of clerical error or plain and clear error of fact, and not interpretation, RSA 76:7-a authorizes the board to order the Town to reimburse the Taxpayer's filing fee. The board finds this is such a case, and the Town is ordered to reimburse, within ten (10) days of the clerk's date, the Taxpayer's \$40.00 filing fee.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Northeast Property Tax Consultants, representative for the Taxpayer; and Chairman, Selectmen of Loudon.

Dated: July 20, 1992

Valerie B. Lanigan, Clerk

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