

**Barry Kepnes, Paul Kepnes and Robert Kepnes**

**v.**

**Town of Thornton**

**Docket No. 7537-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$33,700 (land only) on their real estate, consisting of a lot on Route 3 with a fire gutted mobile home (the Property). The Town and Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Town and Taxpayers were 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 disproportionately taxed.

The Taxpayers, in their written appeal, argued a survey, done in June of 1989, showed the size of the lot was 12,296 sq. feet, not 1.1 acres, as assessed.

The Town indicated in their reply to the board's checklist that the assessment was reduced in 1990 for the corrected land size.

Based on the evidence we find the correct assessment should be \$18,700 (land only). The selectmen have the authority to correct assessments for errors that are discovered before the end of the tax year (See RSA 76:14). The 1989 tax year ran from April 1, 1989 to March 31, 1990. The survey correcting

the acreage was available to the town during the summer of 1989; the 1989 assessment should be corrected to \$18,700.

If the taxes have been paid, the amount paid on the value in excess of \$18,700 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Mr. Barry Kepnes, representative for Barry/Paul/Robert Kepnes, taxpayers; and the Chairman, Selectmen of Thornton.

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Valerie Lanigan, Clerk

Date: March 20, 1992

0009