

Thomas J. Sutton

v.

Town of Merrimack

Docket No.: 7837-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$140,700 (land \$63,000; buildings \$77,700) on a 1.59-acre lot with a split-level house (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the house was poorly constructed, and the Taxpayer incurred \$5,000 worth of repairs to make the Property marketable;
- (3) the Property had been listed for sale in 1992 for \$105,000;
- (4) a comparable property is listed for \$115,900;
- (5) the assessed value should have been \$110,000 in 1989;

(6) the Property cannot be sold for anywhere near the assessed value; and

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(7) the Property does not have a full basement.

The Town argued the assessment was proper because:

(1) comparable properties sold in January, 1987 for \$124,900 and in March, 1989 for \$148,000;

(2) the home was built in 1983 and the comparables are much older;

(3) the Town reduced the \$147,200 original assessment by \$6,500 to address the Taxpayer's expenses in making the house marketable;

(4) the Property is a split-level home, and therefore, any "lower level" is considered a full basement;

(5) the Town used 604 known sales from 1987, 1988 and 1989 and time adjusted the sales to January 1, 1989 and, using multiple-regression analysis, arrived at models to be used in assessing the properties in Town; and

(6) the same methodology was used throughout the Town.

Based on the evidence, we find the correct assessment should be \$125,000. 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.) This assessment is ordered because the Town did not adequately address deferred maintenance with the \$6,500 adjustment to the original assessment.

If the taxes have been paid, the amount paid on the value in excess of

\$125,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.
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Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas J. Sutton, Taxpayer; and Office of the Assessor of Merrimack.

Dated: February 11, 1993

Valerie B. Lanigan, Clerk