

Russell and Susan Marsden

v.

Town of Thornton

Docket No.: 7872-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of:

<u>Map & Lot #</u>	<u>Assessment</u>
15-1-43 (lot 43)	\$141,000 (land, \$33,800; buildings, \$107,200 - 1.1 acre lot with a single family dwelling)
15-1-40 (lot 40)	\$ 27,500 (2.90 acre lot)
15-1-41 (lot 32)	\$147,100 (land, \$35,600; buildings, \$111,500 - 2.90 acre lot with 2-family dwelling)

(the Property). The Town failed to appear, but consistent with our Rule, TAX 102.03(g), the Town was 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 assessments were 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 assessments were excessive because:

(1) Lot 43 is a single family dwelling on 1.1 acres of land built in 1985 and the fair market value as of April 1, 1989 is between \$110,000 and \$115,000;

(2) Lot 40 is a 2.9 acre unimproved lot which has been on the market since 1985 for \$15,000 with no offers;

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- (3) Lot 32 is a two-family dwelling on 2.9 acres built in 1987 which has been on the market for \$129,900 for four years - one apartment is rented and the other is not;
- (4) comparable sales indicate the properties are overassessed; and
- (5) Lots 40 and 32 have topographical problems with ledge and a drop off to a brook.

The Town did not appear and submitted no written arguments.

The board's inspector inspected the property, reviewed the property tax cards, and filed a report with the board. This report concluded the proper assessment for Lot 43 should be \$114,800 (land \$ 33,800; buildings \$81,000); Lot 40 should be \$19,250; and Lot 32 should have no change in value.

Board's Rulings

Based on the evidence, we find the correct assessments should be:

Lot 43 - \$114,800 (Land \$33,800; Buildings \$81,000);

Lot 40 - \$ 15,000 (Land only); and

Lot 32 - \$129,900. 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 of Lot 32 between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

These assessments are ordered because the Board finds the Taxpayers' evidence of comparable sales and the amount of time that the properties have been

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on the market is evidence of the values of the Properties. Further, the Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the

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Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

The board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

If the taxes have been paid, the amount paid on the value in excess of \$259,700 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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Russell and Susan Marsden, Taxpayers; and Chairman, Selectmen of Thornton.

Dated: September 30, 1992

Melanie J. Ekstrom, Deputy Clerk

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