

Stephen Daley and Laraine Daley

v.

Town of Greenville

Docket No. 8075-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$119,000 (land, \$34,900; buildings, \$84,100) on a single-family home (the Property). Neither party appeared at the hearing, but consistent with our Rule, TAX 102.03(g), neither party was 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 argued, in their written submittals, the assessment was excessive because:

- 1) the assessment was higher than similar, adjacent lot;
- 2) the lot was wet, resulting in a wet basement;
- 3) the garage was overassessed;
- 4) due to the declining real estate market; and
- 5) a June, 1988 appraisal was at \$106,000.

The Town did not present any evidence.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$106,950. The inspector made the following adjustments to

the Town's assessment due to: 1) the dwelling being a modular home; 2) the dwelling had finish in the basement; 3) for age and condition of dwelling; and 4) for functional water problem in the basement.

Based on the evidence we find the correct assessment should be \$106,950. This assessment is ordered because the board accepts the Taxpayers testimony as confirmed by the board's inspector.

If the taxes have been paid, the amount paid on the value in excess of \$106,950 shall be refunded with interest at six percent per annum from date paid to refund date.

The board must comment on the Town's failure to appear and failure to submit any documents whatsoever to support the assessment. The board must review individual property assessments within the context of the assessments generally in the Town. The board cannot do this if the Town does not appear or submit supporting material. Additionally, the Taxpayers from the Town who appeared in other hearings testified the Town had had minimal or no contact with them during the process. This dereliction has, hopefully, stopped, given the mandate in RSA 76:16 II, which requires Town's to review assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Edward & Martine Desautels, taxpayers; and the Chairman, Selectmen of Greenville.

Melanie J. Ekstrom, Deputy Clerk

Date: March 4, 1992

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