

William R. and Valerie Turner

v.

Town of Candia

Docket No.: 10024-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$96,150 (land \$27,750; buildings \$68,400) on an 8-acre lot with a single-family home (the Property). The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the land was purchased for \$10,000 in 1986 and the house was built for \$55,000 in 1989;
- 2) a May 6, 1988 appraisal estimated a \$169,000 value;

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- 3) a November, 1990 comparative-market analysis estimated a \$139,000 to \$144,900 market value;
- 4) the assessment is based on a 44% equalization ratio, resulting in a \$218,525 assessment at 100%;
- 5) property values have been declining since July, 1987, yet the assessment has increased substantially; and
- 6) newer homes, like the Property, were assessed higher than older homes.

The Town argued the assessment was proper because:

- 1) the 1990 equalization ratio was 52%, not 44%; and
- 2) the Property has superior construction and more square-foot living area than the Taxpayers' comparables.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$82,470 (\$27,750; building \$54,720). This assessment was arrived at by deducting -20% from the building, which is consistent with the Taxpayers' market evidence and the Town's 1991 assessment (\$154,550 with a 104% equalization ratio). The board rejects the Taxpayers' assertion that the building should only be assessed for \$55,000. Based on the Town's 1991 reassessment and the board's knowledge of building costs, the building's value certainly exceeded \$55,000.

If the taxes have been paid, the amount paid on the value in excess of \$82,470 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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.

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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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to William R. and Valerie Turner, Taxpayers; and Chairman, Selectmen of Candia.

Dated: March 16, 1993

Melanie J. Ekstrom, Deputy Clerk