

Alfred J. and Irene N. Guillette

v.

Town of Candia

Docket No.: 10223-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$99,850 (land \$18,750; buildings \$81,000) on a 3.5-acre lot with a house (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) a June 15, 1989 appraisal estimated a \$176,500 value;
- 2) the Property was purchased July 21, 1989 for \$156,000;
- 3) the Property was not complete in 1990, i.e., no floors or millwork;

- 4) the Property has a state culvert on it; and
- 5) other properties pay only half the taxes that Taxpayers do.

The Town argued the assessment was proper because:

- 1) the Property has more square-foot living space and more frontage than the comparables; and
- 2) a -15% functional depreciation was applied to address the Taxpayers' concerns about the incomplete construction.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$83,200, which equates to a \$160,000 market value. This assessment is supported by the Taxpayers' appraisal and purchase price.

The Taxpayers stated the Property's purchase price was \$156,000. While this is some evidence of the Property's market value, it is not conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). However, the price was consistent with the 1991 revaluation assessment and the Taxpayers' 1989 appraisal. The Taxpayers, therefore, supplied credible market data while the Town only compared the Taxpayers' assessment to other assessments without relating the assessments to market value. Under RSA 75:1, assessments must be related to market value.

If the taxes have been paid, the amount paid on the value in excess of \$83,200 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.

The motion must state with specificity the reasons supporting the request,

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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 Alfred J. and Irene N. Guillette,
Taxpayers; and Chairman, Selectmen of Candia.

Dated: March 16, 1993

Melanie J. Ekstrom, Deputy Clerk

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