

David T. and Esther M. Tannenbaum-Bostic

v.

Town of Pittsfield

Docket No.: 10494-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$166,700 (land \$50,200; buildings \$116,500) on Lot 6, a 5.1-acre lot with a house (the Property). 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 Property was purchased October 1, 1990 for \$117,500;
- (2) an appraisal done for financing purposes at the time of the sale estimated the value at \$120,000;
- (3) the house had been rented by the previous owner and was in poor condition;

(4) while the main portion of the house was in reasonably good structural condition, the oversized garage was a `qualified` enhancement to the overall property; and

(5) Footings and foundation walls have shifted causing cracks, waves, heaves and roof leaks at the joints.

The Town argued the assessment was proper because:

- (1) a 12% depreciation factor for physical condition was reasonable;
- (2) the view is above average (1.4); and
- (3) the assessment is consistent with comparables used (Rheaume, Ober, Taber, Silverman, Brewster, Hamlin, Hassett and Shaughnessy).

The Board finds an additional 20% physical depreciation should be made.

The correct 1990 assessment is:

\$ 50,200 land
<u>\$ 93,200 building</u>
\$143,400 total

If the taxes have been paid, the amount paid on the value in excess of \$143,400 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

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to David T. and Esther M. Tannenbaum-Bostic, Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: September 13, 1993

Valerie B. Lanigan, Clerk