

**Willis Rollins and Nellie Rollins**

**v.**

**Town of Deerfield**

**Docket No.: 10771-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$118,200 (land, \$45,300; buildings, \$72,900) on a single-family home, with a .43-acre lot (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 to the Town's recommended (and corrected) assessment of \$111,900 (land, \$39,000; buildings, \$72,900). (Note: The adjusted assessment recommended by the Town was actually \$112,500 with the breakdown land and building of \$39,000 and \$72,900). Obviously there was a mathematical error, and we gave the benefit of the doubt to the Taxpayers and added up the land and building assessments to arrive at the \$111,900.

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).

The Taxpayers argued the assessment was excessive because:

- (1) there are several problems with the Property, including a wet basement, a partially finished second floor that lacks heat, windows or finished flooring, an unfinished garage and a dry well with no room for a leach field; and
- (2) in March 1989 the Property was listed for sale at \$115,000 and was later reduced to \$100,000.

The Town reviewed the assessment and corrected the land size, based on the Taxpayers' deed, resulting in the \$111,900 adjusted assessment. The Town argued no further adjustments were warranted.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the proper assessment should be \$104,850.

Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

#### **Board's Rulings**

Based on the evidence, we find the Taxpayers failed to demonstrate that any further adjustment was required. Additionally, the adjusted assessment was in line with the Taxpayers' 1989 asking price. We note that, based on the equalization ratio, that the market was rapidly falling in Deerfield from 1990 - 1991. Thus, the assessment in years after 1990 exceeded the Property's market value.

The Board did not adopt the inspector's report because:

- 1) he erred in his land adjustment by using the \$1.80 square-foot figure and recalculating the land when the Town uses a chart that reflects different square-foot prices based on the lot size; and
- 2) the Taxpayers' evidence does not indicate any additional change was warranted.

If the taxes have been paid, the amount paid on the value in excess of \$111,900 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, 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

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Willis & Nellie Rollins, taxpayers; and the Chairman, Selectmen of Deerfield.

Dated: June 16, 1993

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Melanie J. Ekstrom, Deputy Clerk

009/004