

Harry L. & Elizabeth Johnson

v.

Town of Cornish

Docket No.: 10840-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$88,750 (land \$66,950; buildings \$21,800) on a 16-acre lot with a dwelling (the Property). The Taxpayer 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 Property was assessed higher than neighboring properties having larger, landscaped lots;
- 2) the Property is steep, rocky, and the frontage is ditch;
- 3) the Property has a shared driveway; and

4) the dwelling has a poor floor plan and is in need of repair;

The Town argued the assessment was proper because:

- 1) the Property is within range of the comparables in acreage, frontage, and values;
- 2) the Property is assessed as class 2 with additional 30% physical and 10% functional depreciations applied; and
- 3) the same methodology was used throughout the Town.

The board's inspector viewed the Property, reviewed the assessment-record card and filed a report with the board. This report concluded the proper assessment should be \$73,850 (land \$55,500; buildings \$18,350). The inspector made additional adjustments to the building's physical and functional depreciation, applied a 5% economic depreciation for the abutting, low-cost dwelling and adjusted the topography factor for the steep frontage.

Board's Rulings

Based on the evidence, the board finds the inspector's report properly adjusts for the physical aspects of the Property and is the best evidence of market value. The board finds that, while the Property has a good view of Mount Ascutney, the value of lower-priced property, such as this, is usually not influenced significantly by views.

If the taxes have been paid, the amount paid on the value in excess of \$73,850 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

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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

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been
mailed this date, postage prepaid, to Harry L. and Elizabeth Johnson,
Taxpayers; and Chairman, Selectmen of Cornish.

Dated: March 3, 1993

Melanie J. Ekstrom, Deputy Clerk