Donald and Fay Green

v.

Town of Gilmanton

Docket No.: 10866-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $97,500 (land, $26,500; buildings, $71,000) on 5-acres (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 home was incomplete and the Taxpayers live in the basement, the floors and walls are cement, rooms are partitioned by rough wood, and the only heat source is a woodstove;

(2) the taxes have increased substantially, yet the Property has remained unchanged since purchase; and

(3) the Town's inspector never entered the home when the Town was revalued.

The Town argued the assessment was proper because:

(1) the original $144,600 assessment was reduced to the current amount to address the home's condition;

(2) an interior inspection was performed, resulting in a further reduction to $69,500 +/- which the Taxpayers will not accept;

(3) the revised assessment puts the Property well within range of similar incomplete houses, i.e., other shell-only homes had a 50-60% temporary depreciation factor; and the Property had a 55% depreciation factor; and

(4) the same methodology was used throughout the Town.

The board's inspector submitted a report (copy attached) but the board placed no weight on the report.

Board Findings

Based on the evidence, we find the correct assessment should be $71,200 (land $26,500; buildings $44,700).

This assessment is ordered because:

1) the board finds the Town's proposed adjustments outlined in their April 23, 1992 letter reasonably account for the unfinished condition and layout of the dwelling; and

2) no evidence was submitted by the Taxpayers as to the value (or taxability) of the pool or shed.

If the taxes have been paid, the amount paid on the value in excess of $71,200 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, 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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Paul B. Franklin, Member

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Michele E. LeBrun, Member

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald and Fay Green, Taxpayers; and Chairman, Selectmen of Gilmanton.

Dated: May 24, 1993

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Melanie J. Ekstrom, Deputy Clerk