

Ellen K. McCullough

v.

Town of Sanbornton

Docket No.: 8423-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$19,200, (land, \$6,500, buildings, \$12,700) on Map 11, Lot 40, consisting of a 6,500 square foot lot with a seasonal cottage (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 Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in Taxpayer 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 Taxpayer carried this burden and proved she was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- (1) drainage from the Town road and neighboring lots, periodically flooded the land and heaved the block foundation;
- (2) the cost of engineering and repairing the drainage problems would total approximately \$9,200; and
- (3) the Property is not "even marketable under the existing conditions and which are barely inhabitable."

The Town argued the assessment was proper because:

- (1) owner's of other cottages have not attempted to build on foundations due to the high water table in that area; and
- (2) the assessment is fair.

The board finds, based on its experience¹, that the drainage and foundation problems, as documented by the Taxpayer, would reduce the market value to a greater extent than the Town's adjustments on the lot and cottage.

Therefore the board rules that the land and building value should be reduced an additional 10% for the drainage problems resulting in a correct assessment of \$17,150 (land 4,050; water & sewer, \$2,000; building \$11,100).

SO ORDERED

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Date: August 19, 1991

I certify that copies of the within decision have been mailed, postage prepaid, to Ellen K. McCullough, Taxpayer and to the Selectmen, Town of Sanbornton.

Date: August 19, 1991

Melanie J. Ekstrom, Deputy Clerk

¹ The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).