

William E. Sullivan and Joyce L. Sullivan
v.
Town of Holderness

Docket No.: 8623-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$515,100 (land, \$397,500; building, \$117,600) on Squam Lake consisting of .59 acres and a seasonal summer residence (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(3); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and prove they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

1) Property has only 100 feet of lake frontage, whereas neighboring properties have double or triple lake frontage and are assessed only slightly higher;

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2) the house was built in 1940 not 1970 as indicated on the assessment card and reflects a value of \$117,000; yet two comparables have building values of \$44,000 and \$59,000; and

3) Property is a summer residence only.

The Town argued the assessment was proper because:

1) assessments on Squam Lake waterfront were consistently arrived at using yardsticks derived from recent sales. Average one-acre sites were valued at \$400,000, average additional acreage was valued at \$40,000 per acre, and average additional frontage was valued at \$500 per foot increments of 150 feet. Taxpayers Property does have more frontage than many others and the market indicates the average buyer would value frontage more highly than acreage.

2) a correction of the Taxpayers' Property regarding the heating fuel and type and actual year built yields a change of -\$18,400.

3) Taxpayers' assessment, after adjustments, is consistent with that of other properties in the neighborhood.

The Town agreed the assessment should be adjusted because of the change in gas-fired forced hot air to electric baseboard and year built to 1940, year depreciated to 1960 making a change of -\$18,400.

Based on the evidence, the board finds the Town's adjustment is appropriate and should be applied to the 1990 assessment, resulting in a 1990

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assessment of \$489,500 (land, \$397,500; building \$92,000).

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If taxes have been paid, the amount paid on the value in excess of \$489,500 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to William E. Sullivan and Joyce L. Sullivan, Taxpayers; and Chairman, Selectmen of Holderness.

Melanie J. Ekstrom, Deputy Clerk

Date: January 29, 1992

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AMENDED ORDER

On March 19, 1992 the board of tax and land appeals (board) received a request from the Town of Holderness for clarification and revision of the board's decision of January 29, 1992. The Town stated that the board's order appeared to ignore the "extra features" value of \$7,200 in its decision. While the Town's motion for clarification is well past the RSA 541:3 20 day requirement for filing such motion, the board on its own motion amends its order on page 2 as follows:

"Based on the evidence, the board finds the Town's adjustment is appropriate and should be applied to the 1990 assessment, resulting in a 1990 assessment of \$503,900 (land \$397,500; building \$106,400). The building value is comprised of the Town's recommended adjustment on the dwelling (\$99,200) and the separately listed "extra features" value (\$7,200). If the taxes have been paid, the amount paid on the value in excess of \$503,900 shall be refunded with interest at six percent per annum from date paid to refund date."
SO ORDERED.

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Paul B. Franklin, Member

Michele E. LeBrun, Member

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I certify that copies of the within order have this date been mailed, postage prepaid, to William E. and Joyce L. Sullivan, taxpayers; and Chairman, Selectmen of Holderness.

Valerie B. Lanigan, Clerk

Date: April 9, 1992

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