

Lynwood J. and Lillian M. Babbitt

v.

Town of Charlestown

Docket No.: 8640-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$91,950 (land, \$20,500; buildings, \$71,450) on their real estate on South Main Street, identified as Map 33, Lot 11, consisting of a dwelling and old cottage on a .90 acre lot (the Property). The Town failed to appear, but consistent with our Rule, TAX 102.03(g), the Town was not defaulted. This decision is based on the evidence presented to the board. 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.

Lynwood J. and Lillian M. Babbitt

v. Town of Charlestown

Docket No.: 8640-90

Page 2

The Taxpayers argued the assessment was excessive because:

- (1) the house has remained essentially unchanged since it was built in the 1930's, consequently having an old kitchen, bath, few closets, no heat on the second floor;
- (2) there is no real attic, only a few boards laid across the ceiling joints;
- (3) the old cottage is no longer habitable, it is currently used for storage; and
- (4) comparable lots are assessed for \$10,000 to \$14,000.

The Town submitted copies of the assessment record cards.

Based on the evidence, we find the correct assessment should be \$75,650 (land \$13,900 and building \$61,750). This assessment is ordered because:

- (1) the second site value for the cottage is removed and the improved land value is estimated at \$13,900;
- (2) the value of the attic and heat on the second floor is removed and 15 percent functional depreciation is applied to the house to reflect its many outdated features; and
- (3) the Town's estimate of \$9,950 for the contributory value of the cottage used as storage is reasonable.

If the taxes have been paid, the amount paid on the value in excess of \$75,650 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Lynwood J. and Lillian M. Babbitt

v. Town of Charlestown

Docket No.: 8640-90

Page 3

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Lynwood J. and Lillian M. Babbitt, Taxpayers; and Chairman, Selectmen of Charlestown.

Dated: July 20, 1992

Valerie B. Lanigan, Clerk

0007