

Leroy and Joyce Bienefeld

v.

Town of Northwood

Docket No.: 8751-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$70,850 on a manufactured home on 25,475 square-foot lot (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 they were disproportionately taxed.

The Taxpayers argued the assessment was excessive because:

- 1) an appraisal as of July 3, 1991, indicated a \$41,000 value;
- 2) the Property is accessed by a long dirt road that is not maintained by the Town;

- 3) the Property has no city services; and
- 4) the property across the street is an eyesore.

The Town argued the assessment was proper because:

- 1) department of revenue administration (DRA) conducted a complete revaluation for all properties in Northwood for the tax year 1989;
- 2) Taxpayers have been at the same assessment for the tax years 1989, 1990 and 1991;
- 3) the 1990 sales ratio study, calculated by DRA, indicated a drop in market value of approximately 17% from 1989 values; and
- 4) the Town is assessed at 1.17% of market value. (Note: The Town incorrectly stated the ratio was 1.17% for 1990; the media ratio, which is the proper ratio, for 1990 was 1.07%.)

Based on the evidence, we find the correct assessment should be \$67,310. This assessment is ordered because the Taxpayers' appraisal was not as of April 1, 1990, and it used comparables of a lower quality than the Taxpayers' Property, and the appraisal did not adequately adjust for this. Taxpayers' argument concerning lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment. We also note the Town has correctly adjusted for the dirt-road access. However, the neighboring property would adversely affect the Property's market value. Thus, a 5% adjustment has been made,

resulting in a \$67,310 assessment. No further adjustment is warranted.

Leroy and Joyce Bienefeld
Docket No.: 8751-90
Page 3

If the taxes have been paid, the amount paid on the value in excess of \$67,310 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Leroy and Joyce Bienefeld, Taxpayers; and Chairman, Selectmen of Northwood.

Dated: November 6, 1991

Melanie J. Ekstrom, Deputy Clerk