

Wayne Leighton and Maria Leighton

v.

Town of Kingston

Docket No.: 8856-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$220,200 (land \$69,500; building \$150,700) on a 2.22-acre lot with a house (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 land is steep with difficult terrain;
- 2) the assessor never entered the building to view the poor workmanship, e.g., unaligned windows, visible drywall seams and tape, and inferior insulation;

- 3) the fireplace was incomplete and should not have been assessed at its full value;
- 4) the house was incomplete, e.g., it needed closet doors, interior trim, stairs (outside, attic or basement), insulation between floors, and heating registers, and the landscaping was only 40% complete;
- 5) two realtors estimated a \$177,000 to \$179,000 sale price; and
- 6) the assessed value should be \$175,758.

The Town failed to submit any arguments to support the assessment and was finally defaulted. The assessment-record card shows a 1991 review abatement to \$198,700 (land \$64,200; buildings \$134,500).

#### Board's Rulings

We also find the Taxpayers supported the Property's assessment.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.

This assessment is ordered because the Taxpayers' unrefuted evidence showed that the Property had a late 1990 market value of approximately \$175,000. The board then time adjusted this value to April 1, 1990. The time adjustment was arrived at by comparing the 1990 equalization ratio (105%) with the 1991 equalization ratio (121%) resulting in a 1.25% drop per month decline in the market. Therefore, taking the \$175,000 x 8.75% (7 months x 1.25)

results in \$190,310. This market value then must be multiplied by 1.05 to

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bring it in line with other assessments in the Town, resulting in a final assessment of \$199,830.

If the taxes have been paid, the amount paid on the value in excess of \$199,830 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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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Wayne and Maria Leighton, Taxpayers; and Chairman, Selectmen of Kingston.

Dated: April 30, 1993

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Melanie J. Ekstrom, Deputy Clerk