

Steven H. and Jaclyn T. Deyo

v.

Town of Hinsdale

Docket No.: 9543-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$128,800 (land, \$27,900; building, \$100,900) on 1.72-acres with building (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 Property was purchased for \$128,840 in November, 1989, and the assessment was based on the sale - not comparable properties;

(2) the purchase price was based on the assumption the road would be paved and maintained by the Town but it is not;

(3) the land assessment is too high because the lot does not have frontage on a town road and because of a .3-acre slope easement on the front lawn; and

(4) the building value is high compared to other homes in the Town.

The Town argued the assessment was proper because:

(1) two comparables indicate Taxpayers' assessment is assessed at a fair and equitable value;

(2) a revaluation performed in 1989 indicated an assessment of \$128,800; and

(3) Taxpayers' purchased the Property in 1989 for \$128,840.

Board Findings

Based on the evidence, we find the correct assessment should be \$126,200 (land, \$25,300; building, 100,900) because the board finds the Town's methodology did not consider the uncertainty of the completion and acceptance of the road by the Town compared to those comparable properties that were located on a Town accepted and maintained road. To account for this difference, the board reduced the condition factor by 10% on the land. If and when the road is accepted by the Town, this assessment should be reexamined and adjusted accordingly.

If the taxes have been paid, the amount paid on the value in excess of \$126,200 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

Steven H. and Jaclyn T. Deyo v. Town of Hinsdale
Docket No.: 9543-90
Page 3

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

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 Steven H. and Jaclyn T. Deyo, Taxpayers; and Chairman, Selectmen of Hinsdale.

Dated: April 5, 1993

Melanie J. Ekstrom, Deputy Clerk