

John N. and Suzanne M. Langevin

v.

Town of Troy

Docket No.: 10982-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$134,050 (land, \$27,550; buildings, \$106,500) on .59 acres with two buildings (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 based on the board inspector's report.

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 203.09(a); 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) a bank refinancing appraisal estimated the fair market value to be \$100,000 as of August, 1991;

- 2) both houses were in need of improvements, i.e., windows, insulation, modern wiring, etc., and due to the rocky ledge cannot have a full basement;
- 3) the second house was not inspected;
- 4) no town sewerage; and
- 5) the Property abuts a cemetery and a church.

The Town argued the assessment was proper because:

- 1) the Taxpayers' comparables indicated the land value appeared to be equitable;
- 2) the Taxpayers' land value was consistent with minimum lot values used throughout the Town;
- 3) not being on town water and utilities would raise the assessment \$5,000;
and
- 4) functional and physical depreciation were given to address the Taxpayers concerns on the buildings.

The board's former inspector and present inspector reviewed the assessment-record card, reviewed the parties' briefs and filed reports with the board (copies enclosed). In this case, the inspectors only reviewed the file; they did not perform an on-site inspections. Note: The inspectors' reports are not appraisals. The board reviews the reports and treats the reports as it would other evidence, giving them the weight they deserve. Thus, the board may accept or reject the inspectors' recommendations. In this case, the board did not rely on the former inspector's report, and the board relied on the present inspector's report concerning the value of the second house.

Board Findings

Based on the evidence, the board finds the assessment should be \$122,275. The Taxpayers submitted an appraisal which was prepared for the purpose of refinancing the Property and asked the board to base its decision on this appraisal. The board finds:

- (1) the appraisal was dated August, 1991 and was not time adjusted to the date of assessment, April 1, 1991;
- (2) the appraisal assumed a value of \$10,000 on the second home without any market or cost evidence as to how the value was arrived at; and
- (3) the Town adequately responded to the Taxpayers' assessment arguments based on the Town's analysis of the comparables.

The second issue is the main question. The Town valued the second house at \$37,000 while the Taxpayers' appraiser valued it at \$10,000. Thus, the board asked its present inspector to review the file. We adopt his recommendation, using the mid-value of his range.

If the taxes have been paid, the amount paid on the value in excess of \$122,275 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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.

Page 4
Langevin v. Town of Troy
Docket No.: 10982-91PT

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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John N. and Suzanne M. Langevin, Taxpayers; and the Chairman, Selectmen of Troy.

Dated: February 14, 1994

Melanie J. Ekstrom, Deputy Clerk