

Felix Dobrowolski and Lucille Dobrowolski

v.

Town of Rye

Docket No. 3345-86

DECISION

A hearing in this appeal was held, as scheduled on June 28, 1988. The Taxpayers represented themselves. The Town was represented by Mary E. Pinkham, Department of Revenue Administration.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$107,200 (land, \$79,000; buildings, \$28,200) placed on their real estate, located on 41 Appledore Ave. (Map 9, Lot 290) for the 1986 tax year.

The parties agreed that the equalization ratio for the Town of Rye for the 1986 tax year was 96 percent.

The Taxpayers submitted the following complaint to the Board of Tax and Land Appeals:

"My complaint has to deal with the infringement of my land by the Town of Rye for a turnaround at the end of Appledore Ave.

I have written to the Selectmen notifying them of my complaint relating to this matter. See enclosed copies of letters from the Town Selectmen which I feel is a lot of "Mumby Jumbo" signifying nothing."

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The Taxpayer described an alleged infringement by Town plows caused by a turn-a-round, which affects approximately 600 square feet.

The Taxpayers would like an agreement with the Town who says the Town paved an area 20' x 30', without compensation.

The Appellant estimated the fair market value of his property on April 1, 1986, to be \$100,000.

According to testimony by the Taxpayers, there is no septic system, but rather a holding tank installed in 1955 with a perforated pipe for the overflow. The tank was pumped out two years ago and would last five years (seasonal use) for two people.

The Taxpayer indicated that he had not taken any formal action against the Town for trespass or to stop plowing road, which has five year round residents.

The Town's representative, Ms. Mary Pinkham, of the Department of Revenue Administration, suggested a possible solution as long as the Town continues to encroach on the Taxpayers land would be to apply a five percent minus adjustment (undeveloped) for as long as the situation continues.

The Boards Review Appraiser, Mr. J. Philip Estey, confirmed the fact that a portion of the appellants land is being used by the Town as a turn-a-round.

The Board finds adjustments are in order for the holding tank and the 600 square foot turn-a-round used by the Town.

The Board rules that the following is the correct 1986 assessment:

Land \$71,900 (reduced 5% for Town infringement)

300 paving
2,000 water and holding tank (this is a \$1,000
reduction from standard septic/sewer charge)

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Land	\$74,200	as adjusted
Buildings	<u>\$28,200</u>	as assessed
Total	\$102,400	as adjusted

If the taxes have been paid, the amount paid on the value in excess of \$102,400 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(Ms. Richmond did not sit.)

Anne S. Richmond, Esq., Chairman

- George Twigg, III, Member

- Raymond J. Damour, Member
Acting Chairman

- Peter J. Donahue, Member

Date: November 22, 1988

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Felix Dobrowolski and Lucille Dobrowolski, taxpayers; and the Chairman, Selectmen of Rye.

- Michele E. LeBrun, Clerk

Date: November 22, 1988

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