

Richard E. Lee and Theresa C. Lee
v.
Town of Wilmot

Docket No. 3619-87

DECISION

A hearing in this appeal was held, as scheduled, on April 13, 1988. The Taxpayers represented themselves. The Town was represented by Earle W. Chandler, Selectmen; Nelson M. Chitterling, Selectmen; and Robert R. Tawney, Selectmen.

The Taxpayers appeal, pursuant to RSA 79-A:9, the 100 percent assessment on their 15 acres of land in current use. The 15 acres is a portion of the Taxpayers' homestead located on 20 acres on Twist Hill Road. The assessment for the 1987 tax year was:

Land in current use	\$900
Land (ad valorem)	\$17,750
Buildings	<u>\$19,430</u>
Total	\$38,080

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 68 percent for the 1986 tax year for the Town of Wilmot.

The Taxpayers argued their 15 acres of land in current use was assessed

100 percent of the current use assessment rate applied by

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the Selectmen of the Town of Wilmot to the subject property. The Taxpayers further argued the proper assessment should consider the equalization ratio as determined by the Department of Revenue Administration, per section III of the Criteria for Current use Assessment Pamphlet for use during the tax year 1987.

The Town argued the \$60 per acre current use assessment rate is not 100 percent of value. The Town further argued they used a middle of the road value and that all properties in the Town were treated the same. The Town also argued they questioned the rules and other Towns used the same system of current use assessment rates.

The Town also argued if an abatement was granted, the Town would have to add value to the building to make up for the value lost on the land.

The Board finds that the subject property was properly classified as productive wild land, unmanaged forest and farm land and the Selectmen properly determined the assessment rate at \$60 per acre. The Board finds the Selectmen failed to apply the equalization ratio as determined by the Department of Revenue Administration of 68 percent to the full assessment rate of \$60 per acre.

The Board notes the Selectmen took it upon themselves to formulate their own rules for assessment of current use land. The

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Board also notes the assessment rate applied to lands in current use is the full value under the current use law and that proper application of the equalization ratio must be made to that full value assessment.

The Board therefore rules the proper assessment for the subject property is:

Land in current use	\$ 612
Land	\$17,750
Building	<u>\$19,430</u>
Total	\$37,792

If the taxes have been paid, the amount paid on the value in excess of \$37,792 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

Anne S. Richmond, Esq., Chairman

(Mr. Twigg did not sit.)
George Twigg, III, Member

Raymond J. Damour, Member

Peter J. Donahue, Member

Date: November 23, 1988

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Richard E. Lee and Theresa C. Lee, taxpayers; and the Chairman, Selectmen of Wilmot.

Michele E. LeBrun, Clerk

Date: November 23, 1988

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