

Roger Arseneau

v.

Town of Weare

Docket No. 3688-87

DECISION

A hearing in this appeal was held, as scheduled, on August 22, 1989. The Taxpayer was represented by Heidi Palmer and John Palmer, owners. The Town was represented by Gary J. Roberge, Appraiser.

The Taxpayer appeals, pursuant to RSA 79-A:10, the assessment of:

		<u>Date of Change</u>
2.24 acres 1 B	\$38,700	August 4, 1987
2.06 acres 1 C	\$38,000	April 30, 1987
2.5 acres 1 D	\$39,500	August 4, 1987(abated to \$35,000)

(Lot 1 A was not appealed)

placed on his real estate, located on the left side of Dudley Brook Road for the 1987 tax year.

The Board of Tax and Land Appeals Review Appraiser, Mr. J. Philip Estey, made an on site inspection and filed the following report:

Lot 1 A (not appealed)	Sold May, 1987	\$40,000
Lot 1 B assessed \$38,700	Sold August, 1987	\$40,000
Lot 1 C assessed \$38,000	Sold April, 1987	\$40,000
Lot 1 D assessed \$39,500	Sold April, 1987	\$40,000

An appraisal report by Compton French, submitted by the Palmers, indicated an estimated value per lot of \$28,000. However, the appraiser noted in his report, "After the date of this appraisal, John W. E. and Heidimarie Palmer sold these lots to Roger Arseneau for figure much higher than \$28,000. The terms of the sale were not for cash or the equivalent. The seller received no money down.

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The real estate changed hands on promissory note of full payment when a house was built and sold."

Mr. Gary Roberge, the Town's appraiser said,

"Fair market values were established by AVITAR as follows:

1 B 3419 - FMU = \$38,700	2.24 acres
1 C 3420 - FMU = \$38,000	2.06 acres
1 D 3421 - FMU = \$35,000	2.50 acres

The original value of lot 3421 was \$39,500 and subsequently reduce (sic) after abatement application was file (sic) due to the less favorable location and view as compared to the other lots.

It is my understanding that by purchasing these lots the current use change tax (sic) was triggered and brought about the penalty assessment, as of 5/87 and 8/87 when the sales took place.

It is my feeling and that of the Town that the values stated above are fair and accurate and your purchase of these lots at \$40,000 each demonstrates the accuracy of our appraisal.

In defense of our assessment we will be using the following sales:

Lot A & C Dudley Brook Rd. 5/87	
2.9 & 2.06 acres	\$80,000
Lot B Dudley Brook Rd. 8/87	
2.24 acres	\$40,000
Lot 9-675-2 Bart Clough Rd. 5/87	
2.01 acres	\$35,300
Lot 9-430 Bar Clough Rd. 6/87	
2.01 acres	\$38,000
Lot 3443 Quacker Rd. 5/87	
2.0 acres	\$38,000

When Mr. Palmer has (sic) his appraisal done, they choose to use a mid to late 1986 sale and early 1987 sales, completely ignoring the current market. Further more (sic), Greenwood Road area is not a comparable area, nor is Windsing Height Road.

For these reasons we believe and will demonstrate that this appraisal, suggesting lot values of \$28,000 each is low."

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The Board finds the best evidence of fair market value are the sale prices of lots 1 B, 1 C and 1 D (\$40,000) and that the land use change tax is not deductible from the selling price any more than a broker's commission would be. The Board declines to speculate how, if at all, the creative aspects of the sale (Palmer to Arsenault) impact on the selling price of the lots (given the speculative nature of the terms and conditions).

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esq., Chairman

George Twigg, III, Member

(Mr. Donahue did not sit.)

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: February 26, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to John Palmer, representative for Roger Arseneau, taxpayer; and the Chairman, Selectmen of Weare.

Michele E. LeBrun, Clerk

Date: February 26, 1990

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