

William Wheeler and Carolyn Wheeler  
v.  
City of Laconia

Docket No. 4283-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$196,700 (land only) on their .35 acre lot fronting on Paugus Bay on Prescott Avenue. The Taxpayers also own, but did not appeal, a 2.25 acre parcel across Prescott Avenue improved with a ranch dwelling and fourteen cottages. This property was assessed for \$396,100. 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 they were disproportionally taxed.

The Taxpayers argued that the parcel was overassessed due to the frontage being in a cove, shallow and somewhat muddy with milifoil. The Taxpayer also stated that it was questionable whether the lot could be developed on its own due to set back requirements would leave only 25' of width in which to locate a building.

The City argued that the beach area was sandy and the muddy area and milifoil was exaggerated. The City also stated that an adjustment had been made for the frontage being in a cove.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$147,500 (land only). The Board finds the size and shape of the lot limits its utility and a portion of the frontage has some mud and milifoil problems. The Board rules the value should be adjusted

25% for these factors.

If the taxes have been paid, the amount paid on the value in excess of \$543,600 (\$147,500 + \$396,100) shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Peter J. Donahue, Member

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to William & Carolyn Wheeler, taxpayers; the Chairman, Board of Assessors of Laconia; and Scott Bartlett, Appraiser for M.M.C., Inc.

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Michele E. LeBrun, Clerk

Date:

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