

Lloyd W. Cate and Jacquelyn R. Cate

v.

Town of Pembroke

Docket No. 4448-88

DECISION

A hearing in this appeal was held, as scheduled, on December 12, 1989. The Taxpayers represented themselves. The Town was represented by Donald W. Dollard, Assessor.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$119,250 (land, \$79,000; buildings, \$40,250) placed on their real estate, located on Borough Road for the 1988 tax year. The property consists of approximately 8 acres of land improved with a two story residence and attached sheds and utility sheds.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 100% for the 1988 tax year for the Town of Pembroke.

Based on that ratio the Taxpayers' assessment equates to a market value of \$119,250 as of April 1, 1988.

The Taxpayers argued they were in a part of Town with a two acre zoning requirement and that lots in that area had sales prices of \$20,000 - \$25,000. The Taxpayers further argued they would not be able to subdivide their property and that there had been some dispute with the Town as to the size of the land parcel.

The Taxpayers presented evidence of a survey done which determined their land was 8.03 acres in area (Taxpayers Exhibit 7). The Taxpayer stated their surveyor was of the opinion that the land could not be subdivided as there was not enough depth along any of the frontage other than the location of the residence and out buildings.

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The Town's assessor stated, in his opinion, the land was the issue in determining the total value of the Taxpayers property. Mr. Dollard noted that nothing has been presented that states the land is not subdividable but he acknowledged he agreed that most likely it could not be subdivided into another buildable parcel. Mr. Dollard presented rebuttal testimony on comparable properties presented by the Taxpayers.

The Taxpayers responded, that in their opinion, all of the comparables presented were arm's length transactions and were of better quality than the subject property.

The Board finds the subject land is 8.03 acres in area and the evidence presented clearly demonstrates lack of subdivision potential. The Board therefore finds the proper assessment for the land portion is \$65,000.

The Board rules the proper assessment for the tax year 1988 was

Land	\$65,000
Building	<u>\$40,250</u>
Total	\$105,250

for the 1988 tax year.

If the taxes have been paid, the amount paid on the value in excess of \$105,250 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

George Twigg, III, Member

Peter J. Donahue, Member

(Mr. Franklin did not sit.)
Paul B. Franklin, Member

Date: January 18, 1990

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Lloyd W. & Jacquelyn R. Cate, taxpayers; and the Chairman, Selectmen of Pembroke.

Michele E. LeBrun, Clerk

Date: January 18, 1990

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