

Walter J. Griffiths and Eileen L. Griffiths
v.
Town of Alstead

Docket No. 4498-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$11,600 (land, \$8,350; buildings, \$3,250) on Map 30, Lot 17 and on Map 30, Lot 16 \$12,150, land only. (Both have shore frontage on Lake Warren.) 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 Town failed to appear or arrange to be represented.

The Taxpayers submitted a narrative appraisal by Sandra J. Beaudry, real estate appraiser. She estimated the value of Lot 16 to be \$8,100 and Lot 17 to be \$3,990. "Subject property has only one lot that can be used as a building site. It can not be subdivided. Lot 17 can not support a septic system and therefore can not be built upon. Lot has no water supply."

The Town told the Taxpayer that Mr. Lewis Gilmore, their 'pick up man', would have to consider the issues relating to the land. The Town did remove the assessment on a bus (registered) which had been illegally assessed. Neither the Town nor its appraiser got back to the Taxpayer as was implied by

the Town. The

Taxpayer made the effort to drive to Concord from Bellows Falls, Vermont, during a particularly hazardous snow storm, to be present for the hearing.

The Town could have notified the Taxpayer that they would not appear or called the Board of Tax and Land Appeals and asked for a continuance, or have at

least notified the Board that the Town would not be represented. They could also have requested a postponement due to bad weather.

According to the Board's rules, neither party will be defaulted for failure to appear in the absence of either or both parties, the appeal will be decided on the evidence submitted. However, the Board finds the Town's failure to either appear or submit any evidence to support their denial of the Taxpayer's appeal to constitute a frivolous position in the matter at hearing.

Therefore, based on the evidence, including the board's inspector's report, we find the correct assessment should be \$20,350 (land, \$17,100 and building, \$3,250). This assessment is ordered because the Board concurs with it's review inspector, Mr J. Philip Estey, who viewed the property on August 11, 1989 and combined contiguous Lots 16 & 17 for utility and contributory value and made a further adjustment for topography. The Board further awards costs to the Taxpayer in the amount of \$30.00 for mileage and \$40.00 for the application fee to this Board. The Town is instructed to make payment of \$70.00 to the Taxpayer within 10 days from the date on this decision. Failure to do so will result in this Board certifying the costs to the Superior Court for collection.

If the taxes have been paid, the amount paid on the value in excess of \$20,350 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue, Member

Ignatius MacLellan, Member

Date: April 10, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Walter J. & Eileen Griffiths, taxpayers; and the Chairman, Selectmen of Alstead.

Michele E. LeBrun, Clerk

Date: April 10, 1991

0009