

Lois Waters
v.
Town of Danville

Docket No. 4966-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$67,050 on a 1.84 acre homesite on Map 1, Lot 44. Map 1, Lot 47, a property consisting of 36.43 acres all in Current Use, was not contested. For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved she was disproportionally taxed.

The Taxpayer argued:

"I believe that the assessment of \$81,600.00 for 80,000 square feet of land is not in line with actual sales. Prime 2 acre lots have been selling in Danville for \$40,000.00 since 1987, during the height of land values.

My lot has a 2,200 foot driveway, not because I wanted a long driveway, but because the land was so narrow I had to go further in.

Well you might say that people will pay more for seclusion, but where my house sits its only 300 feet wide, and my neighbors could develop on either side of my home."

The Town used two comparables with one acre homesites belonging to Amilo (\$76,000) and Fries (\$68,000). The Town used a double homesite value of \$80,000 on the subject property and applied a 1.16 factor from the N.H. Manual for a total of \$92,800, applying 15% for topographical and 15% for access. The Town's final valuation was \$67,050 for the homesite value.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be:

\$ 1,781	Current Use
\$ 59,150	Homesite (67,050 x .75)
<u>\$193,800</u>	Building
\$254,731	Total for Map 1, Lot 44
<u>\$ 1,530</u>	Current Use (Map 1, Lot 47)

If the taxes have been paid, the amount paid on the value in excess of \$256,261 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

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: January 18, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Thomas Waters, representative for Lois Waters, taxpayer; and the Chairman, Selectmen of Danville.

Michele E. LeBrun, Clerk

Date: January 18, 1991

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ORDER

This order relates to the "Town's" motion for rehearing and clarification. The rehearing request is denied. The clarification request is granted.

The Town questioned the board's use of the \$67,050 assessment of the not in current use (NICU) value of \$87,100. The board correctly used a \$67,050 figure because the Town's representative stated at the hearing this was the correct, revised NICU assessment.

February 14, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within order have been mailed this date, postage prepaid, to Thomas Waters, representing the Taxpayer, and to the Chairman, Board of Selectmen, Town of Danville, and to Richard Young, DRA.

Michele E. LeBrun, Clerk

February 14, 1991

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