

Joseph H. Nestor
v.
Town of Greenville

Docket No. 5002-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$178,200 (land, \$74,200; buildings, \$104,000) on a single-family house with approximately 22 acres (the Property). For the reasons stated below, the appeal for abatement is granted.

The Town failed to appear, but consistent with our rule, TAX 102.03(g), the Town was not defaulted. This decision is based on the evidence presented to the board.

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 he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because: 1) it exceeded his costs adjusted for inflation; 2) access to the site is restricted to one driveway; 3) a substantial part of the land (at least 11 acres) is wetlands and the property has a pond and brook; and 4) the topography and wetlands limit further subdivision of the lot, except for possibly one additional lot.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the proper

assessment should be \$138,450 (land, \$59,511; buildings, \$78,960). The inspector made the following adjustments to the Town's assessment:

building - \$125,334 - 10% grade = \$112,800 - 30% phy. & func. = \$78,960

land - 43,560 sq. ft. x .86 = \$37,461 (no view factor) 21 Ac at 3,000 = 63,020
-65% topo = 22,050; land total = \$59,511

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$138,450 (land, \$59,511 and building, \$78,960). This assessment is ordered because the Taxpayer proved his case as confirmed by the board inspector's report.

If the taxes have been paid, the amount paid on the value in excess of \$138,450 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Member

Michele E. LeBrun, Member

Date: June 13, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Joseph H. Nestor, taxpayer; and the Chairman, Selectmen of Greenville.

Melanie J. Ekstrom, Deputy Clerk

Date: June 13, 1991

0009