

Robert E. Gallahue

v.

Town of Seabrook

Docket No. 5400-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$237,000 (land, \$140,000; buildings, \$97,000) on his real estate consisting of a dwelling on a 10,000-square-foot lot (the Property). 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 he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

1) the property is located on the west side of Route 1A, thereby causing anyone living there to have to walk across the heavy traffic on Route 1A to get to the beach;

2) the Town's comparable sales were of properties that were on the east side of Route 1A, closer to the ocean, and not effected by the Route 1A traffic to the extent the subject property is; and

3) the parcel is fully developed with a dwelling and septic system and has no potential for subdivision.

The Town stated that, based on the Taxpayer's assertion that the parcel has no potential for subdivision, the land value should be reduced by \$35,000. The Town testified that there were no sales of property on the west side of Route 1A to indicate any market difference between properties on either side of Route 1A.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$191,500 (land \$94,500 and building \$97,000). This assessment is ordered because:

1) the property has no further development potential and the excess land should be appraised as the abutters' properties were at half the unit rate;

2) while no specific market data exists to indicate a difference in value on the west side of Route 1A for residential properties from similar properties on the east side, the board rules that a 10 percent reduction to the land value

a) is reasonable based on the board's experience and knowledge of the real estate market, and

b) causes the assessment to be more equitable relative to the assessments of property on the east side of Route 1A.

If the taxes have been paid, the amount paid on the value in excess of \$191,500 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

July 22, 1991

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin

Ignatius MacLellan

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Robert E. Gallahue, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Seabrook.

July 22, 1991

Brenda L. Tibbetts, Clerk