

William G. York, Carl R. York, and Paul W. York  
v.  
Town of Charlestown  
Docket No. 5459-88

DECISION

The Taxpayers appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessments as follows:

- 1) Map 39, Lot 26

Land	\$21,000
Building	42,600
	\$63,600
  
- 2) Map 39, Lot 35

Land	\$ 7,500
Building	5,900
	\$13,400
  
- 3) Map 39, Lot 36

Land only	\$8,000
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(the Properties). 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 Taxpayers argued the assessment was excessive because:

(1) the measured frontage was disproportionately higher than the area of the lots:

(2) the power easement adversely affects the Properties' value; and

(3) the odd shape of two of the lots.

The Town argued the assessment was proper because:

(1) the Town did not value the Properties based on frontage;

(2) adjustments were made for Lots 35 and 36 for size; and

(3) the site values used were low relative to others in the Town.

The board's inspector reviewed the property record cards, the Properties, and concluded no adjustments were needed for Lots 35 and 36 but an adjustment (20 percent reduction in land) should be made on Lot 26 because of the power-line easement. When questioned by the board, the Town stated a 25 percent adjustment might be appropriate for Lot 26 because of the easement.

Based on the evidence, including the board's inspector's report, no abatement is ordered for Lots 35 and 36, but an abatement is warranted for Lot 26. We find the correct assessment for Lot 26 should be \$60,100 (land \$17,500 and building \$42,600). This assessment is ordered because we find a 25 percent adjustment to the land only is warranted due to the power-line easement.

Before the abatement, the Properties' total assessment was \$85,000. With this abatement, the total is \$81,500.

If the taxes have been paid, the amount paid on the value in excess of \$81,500.00 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

March 14, 1991

George Twigg, III, Chairman

Peter J. Donahue

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to William C., Carl R., and Paul W. York, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Charlestown.

Michele E. LeBrun, Clerk

March 14, 1991