

William Lepsevich and Bernadette Lepsevich

v.

Town of Goffstown

Docket No. 5466-88

DECISION

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

Map 11, Lot 10	land	\$176,300
	buildings	<u>137,800</u>
	total	\$314,100
Map 8, Lot 33	land only	\$112,300
Map 11, Lot 6	land only	\$ 31,800

The property, located on Tibbetts Hill Road, consists of three separately assessed, but contiguous, parcels totaling approximately 175 acres, improved with a dwelling and attached garage. 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, 125 N.H. 214, 217 (1985). We find the Taxpayers carried their burden and proved they were disproportionally taxed.

The Taxpayers argued the assessments were excessive because:

- 1) most of the acreage had poor access due to limited frontage, the irregular shape of the parcels, wetlands, and ledge;
- 2) the frontage was entirely encumbered with a 400-foot-wide power-line right-of-way that contained two power lines with a third line, a DC transmission line, installed shortly after the assessment date;
- 3) the setting is in a rural part of town with no lawns or flatland;
and
- 4) the house had improper drainage and has significantly settled causing many cracks in foundation, walls, and floors.

The Taxpayers also submitted evidence of their purchase price of the property in 1984 for \$193,000 and a bank appraisal in March of 1988 that estimated the market value at \$255,000.

The Town testified that the assessments on Map 8, Lot 33, and Map 11, Lot 6, were reduced to \$97,900 and \$10,900, respectively, in 1990 and should also apply for 1988. The Town then submitted a comparative spreadsheet of seven sales in support of the revised assessments.

The Board rules that, pursuant to RSA 75:9, there is no evidence to support the valuation of these three parcels as if they were separate estates as the Town has done. The parcels are contiguous, have unity of use, and could not have been sold separately on the assessment date. Therefore, the property should be described and appraised as one estate.

The Board finds that the power lines crossing the frontage and the imminence of the DC line in 1988 would have a significant chilling effect on the value of the property. Therefore, the Board rules that the frontage

condition factor should be adjusted to .15 and the house should receive 5 percent economic depreciation for the effect of the power lines.

All the rear acreage has substantial topographical (wetness and ledge) and access limitations that effect its utility and contributory market value beyond that recognized by the Town. All the rear acreage should have a x.30 condition factor to reflect these conditions.

The house, while only ten years old, exhibits many signs of settling and poor drainage (cracked foundation, racked frame, and cracked walls) for which any prospective buyer would discount. While the Town depreciated the house 10 percent for physical reasons, an additional 5 percent depreciation more adequately accounts for this condition.

In summary, the proper valuation is as follows:

Land:

Site	1 acre	= \$ 51,400
Rear land	174 acres x \$4,000 (unit price) x .68 (influence factor) x .30 condition factor)	= 142,000
Total land value		\$193,400

Buildings:

\$155,292 (total undepreciated value) -15% (physical depreciation) - 2% (functional depreciation) - 5% economic depreciation) x .78 (total condition)	=	<u>121,150</u>
Total value		\$314,550

If the taxes have been paid, the amount paid on the value in excess of \$314,550 is to be refunded with interest at six percent per annum from date of payment to date of refund.

May 1, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to William and Bernadette Lepsevich, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Goffstown.

May 1, 1991

Michele E. LeBrun, Clerk

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