

**Richard J. Reera**  
**v.**  
**Town of Gilford**

**Docket No. 5517-88**

**DECISION**

A hearing in this appeal was held, as scheduled, on September 26, 1990. The Taxpayer was represented by Gerry Prud'Homme and Robert W. Gordon, both of Equitax. The Town was represented by Walter Mitchell, Esquire and Gene Littlefield, Appraiser.

The Taxpayer appeals, pursuant to RSA 76:16a, the assessment of two separately assessed tracts:

Map 11, Lot 4-5: a cottage on a 1.8 acre lot and Scenic Road (Old Rte. 11) with an assessed value of \$94,900 (land, \$61,900; buildings, \$33,000).

Map 12, Lot 4-98: A lot of 1.44 acres with 270 feet of frontage on Lake Winnepesaukee improved with three story structure containing seven rental rooms and an owners apartment, a separate motel building with eight efficiency units, a shed and a boat dock with an assessed value of \$521,700 (land, \$253,300; buildings, \$268,400).

The Taxpayer's representatives of Equitax argued that the assessments should be reduced to \$49,140 for Map 11, Lot 4-5 and \$300,000 for Map 12, Lot 4-98.

Map 11, Lot 4-5

The Board was not convinced that the Taxpayer's comparables were truly comparable or were adjusted adequately to reflect the Taxpayer's property's view of the lake albeit limited and its proximity to Ellacoya State Beach. Thus, the Taxpayer's burden of proof not being upheld, the request for abatement on this parcel is denied.

Map 12, Lot 4-98

The Taxpayer's use of the income approach to value does not, in this case, adequately reflect the market motivations that determine value when there is a mix of a owner's residential use of a property with a commercial use of the property. While the Equitax representatives attempted to quantify the residential value to the owner, the Board rules that it did not accurately measure the property's intrinsic residential and recreational value in addition to its commercial value based on its income potential.

Further, the Board gives little weight to Equitax's "assessment equity analysis" as the comparables in the analysis have more differences than a strict one, two, three ranking system can adequately account for.

However, the Board does rule that the value established during the 1986 revaluation, when viewed now for equity in the 1988 tax year falls above the high end of a proportional and reasonable tax assessment range for this property. Therefore, the Board rules that its investigator's valuation of \$499,750, reflecting adjustments for physical and functional depreciations, more appropriately measures the taxpayer's share of the common tax burden.

Therefore, the Board rules the proper 1988 assessments are:

Map 11, Lot 4-5:	\$ 94,900	(land, \$61,900; buildings, \$33,000)
Map 12, Lot 4-98:	<u>\$499,750</u>	(land, \$253,300; buildings, \$246,450)
Total	=	\$594,650

If the taxes have been paid, the amount paid on the value in excess of \$594,650 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Peter J. Donahue, Member

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Paul B. Franklin, Acting Chairman

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Ignatius MacLellan, Member

Date: October 15, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gerry Prud'Homme, representative for Richard J. Reera, taxpayer; Chairman, Selectmen of Gilford; and Walter Mitchell, Esquire.

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Michele E. LeBrun, Clerk

Date: October 15, 1990

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