

Kathryn J. O'Neil  
v.  
Town of Bristol  
  
Docket No. 5543-88

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessments of the following:

Lot 35 (aka "the big house")  
\$194,800 (land, \$110,650; building, \$84,150)

Lot 36 (aka "the ranch house")  
\$151,350 (land, \$85,850; building, \$65,500)

Lot 37 (aka "the back lot")  
land only, \$8,800

Lot 50 (aka "the front lot")  
land only, \$319,600

(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 her burden and proved she was disproportionally taxed.

The Taxpayer argued the amount of taxes was too high for her. She also argued:

- (1) Lot 35 and Lot 36: share well and driveway;
- (2) Lot 37: unbuildable, sought building permit but was denied; and
- (3) Lot 50: believes it is unbuildable, but never sought a building permit, and thus, is only good to preserve the view of other lots.

The Town argued:

- (1) the assessments were consistent with other assessments in the area;
- (2) Lot 35 and Lot 36: valued correctly and within the range of appraisal done for the Taxpayer's husband's estate;
- (3) Lot 37: valued as landlocked and at "abutter value" only;
- (4) Lot 50: valued as buildable because the burden was on the Taxpayer to show otherwise. (However, the Town agreed an adjustment was required due to excess frontage and undeveloped depreciation, resulting in a proposed assessment of \$263,450 for Lot 50).

Based on the evidence, we find the correct assessments should be:

Lot 35: \$189,270 (land, \$105,120; building, \$84,150), adjusting land 5 percent for shared well and driveway;

Lot 36: \$147,060 (land, \$81,560; building, \$65,500), adjusting land 5 percent for shared well and driveway;

Lot 37: land only, \$8,800, with no adjustments; and

Lot 50: land only, \$197,600, adjusting proposed assessment of \$263,450 by an additional 25 percent to reflect: a) adverse effect the abutting "beach club" has on this lot's value; b) adverse effect of need to seek variance to

build; and c) questions concerning suitability of lot for septic. The Taxpayer's total assessment for 1988 shall be \$542,730.00.

If the taxes have been paid, the amount paid on the value in excess of \$542,730.00 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 6, 1991

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Kathryn J. O'Neil, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Bristol.

Michele E. LeBrun, Clerk

March 6, 1991