

David E. Corbit and Judith M. Corbit

v.

Town of Goffstown

Docket No. 5556-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$466,000 (land, \$304,500; buildings, \$161,500) placed on their property consisting of a colonial-style residence sited on approximately 94 acres of land (the Property). 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 their burden and proved they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because the land of the Property was traversed by two easements for electric-power companies. The Taxpayers further stated one of the power-company transmission lines was a high-voltage line which presented some health risk. The Taxpayers presented into evidence an appraisal indicating the fair-market value of the subject property to be \$380,000 as of April 1, 1988. The Taxpayers' appraisal

indicated the impact of the power lines, as well as the topographical conditions of the land.

The Town argued the land was valued based on approximately \$2,600 per acre after adjustments from an original back-land value of \$4,000 an acre. The Town's representative explained that the frontage of the Property was adjusted for the power line, as well as excess frontage and topography.

Based on the evidence, including the board inspector's report, we find the correct assessment should be \$380,000 (land, \$218,500; buildings, \$161,500). This assessment is ordered because the Taxpayers met the burden of proof and demonstrated the land surrounding their home did not have development value but was valuable as supplemental land to the homesite and colonial residence.

If the taxes have been paid, the amount paid on the value in excess of \$380,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

May 2, 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 David E. and Judith M. Corbit, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Goffstown.

Michele E. LeBrun, Clerk

May 3, 1991

1002