

Herbert C. Gray, Jr.

v.

Town of Lancaster

Docket No. 5571-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 abated assessment of \$23,450.00 (land, \$21,950.00; buildings, \$1,500.00) on approximately 7.43 acres of land with 3 sheds thereon (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 this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was too high, resulting in an unfair tax burden, because:

(1) the Property is burdened by two 100-foot-wide utility easements, which greatly restrict the Property's use, marketability and potential subdivision; and

(2) the Property has approximately 2 acres of wetlands.

The Town argued:

(1) the assessment was in line with other assessments in the general vicinity;

(2) the assessment was supported by a June 1987 sale to North City Motors;

(3) the Public Service easement, although of record, was not in use;

(4) a single buildable lot existed with additional land that added some value to the buildable lot; and

(5) adjustments for the wetlands had already been given.

Based on the evidence, we find the correct assessment to be \$18,000.00 (land \$16,500.00 and building \$1,500.00). This assessment is ordered because the very unusual existence of two 100-foot-wide easements and the restrictions incident to the easements, which adversely affect the Property's value. To accurately reflect the easements' impact, the land component was depreciated by an additional 25 percent, then rounded off.

If the taxes have been paid, the amount paid on the value in excess of \$18,000.00 shall be refunded with interest at six percent per annum from date paid to refund date.

January 9, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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 Herbert C. Gray, Jr., the Taxpayer, to the Chairman, Board of Selectmen, Town of Lancaster, and to Richard Young, D.R.A.

Michele E. LeBrun, Clerk

January 9, 1991

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