James P. Doherty and Celeste M. Doherty
v.
Town of Bristol

Docket No. 5708-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of $138,700 and $276,350 for separately assessed parcels identified as Map 23, Lot 36 and Map 23, Lot 1 respectively. Lot 36 is an unimproved lot of less than an acre and Lot 1 is a less than one half an acre lot improved with a dwelling and boatslips. Both properties front onto Newfound Lake in an area known as Pikes Point. For the reasons stated below, the appeal for abatement is granted.

The Taxpayers failed to appear, but consistent with our rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board.

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 this burden and proved they were disproportionally taxed.

The Taxpayers argued in a letter to the Board that their property was overassessed due to rocky water frontage, private seasonal access, narrowness of Lot 1 and overvaluation of the docks.

The Town stated that the property had been inspected with the owners and the assessments reduced for 1989 to account for the issues raised by the Taxpayers. The Town stated these adjustments should also apply for the 1988 tax year.

Based on the evidence, including the board's inspector's report, we find

the correct assessment should be $113,750 (land only) for Lot 36 and $256,500 (land, $189,750; buildings, $66,750) for Lot 1.

The Board noted at the time of the hearing that the Town's adjustments for the 1989 tax year contained an error in the excess frontage adjustment and an error in the appraiser's assumption that an adjoining lot (Lot 2) was in the same ownership as abutting lots land 36. Given the facts that Lot 2 had an additional name of Susan Nelson in the title and the error in the excess frontage adjustment, the Board ordered Mr. McSorley to submit corrected assessments for Lots 1 and 36. The Board rules the corrected assessments ($113,750 for Lot 36 and $256,500 for Lot 1) submitted by the Town properly adjust for the issues raised by the Taxpayers and recognize the abutting nature of two substandard lots).

If the taxes have been paid, the amount paid on the value in excess of $370,250 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Peter J. Donahue, Member

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to James P. & Celeste M. Doherty, taxpayers; the Chairman, Selectmen of Bristol; and Richard Young, Director, Property Appraisal Division, Department of Revenue Administration.

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Michele E. LeBrun, Clerk

Date: