

Frederic B. Giebel

v.

Town of Bristol

Docket No. 5849-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$25,400 (land, \$22,150; buildings, \$3,250) and \$73,450 (land, \$39,400; buildings, \$34,050) on his real estate on Peaked Hill Road, consisting of, respectively, a garage on a .48 acre lot on the north side of the road ("garage lot") and a dwelling on a 1.2 acre lot on the south side ("house lot") (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 excessive because:

House lot:

- (1)the building materials in the house were of low quality;
- (2)the high moisture conditions existed in the basement and throughout the house;
- (3)areas were unfinished on the second floor; and
- (4)a right of way to two dwellings behind the Taxpayer's lot limits the utility of the lot.

Garage lot:

- (1)the lot is only .48 of an acre and could not be sold separately from the house lot;
- (2)there is a serious drainage problem with the lot; and

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(3)a right of way splits the lot and reduces the utility of the parcel.

The Town recommended reducing the value of the house lot to \$66,250 and the value of the garage lot to \$22,750 to further account for the rights of ways. The Town stated it was of the opinion that the garage lot was a grandfathered lot and could be sold and developed separately from the house lot.

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

House lot: \$62,750 (land, \$32,200; buildings, \$30,550).

Garage lot: \$13,400 (land, \$10,150; buildings, \$3,250).

This assessment is ordered because:

House lot:

- (1)the evidence indicates the house should be graded lower as a 2 1/2 rather than a 3 due to the low quality of the building components; and
- (2)the land value should be reduced further, as recommended by the Town, for the right of way.

Garage lot:

- (1)the testimony and board's inspector's report raise some serious doubts as to whether this lot could be further built upon and sold separately from the house lot; and
- (2)the land value should be reduced further, as recommended by the Town and board's inspector for the right of way.

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

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Frederic B. Giebel, taxpayer; and Chairman, Selectmen of Bristol.

Valerie B. Lanigan, Clerk

Date: April 2, 1992

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