

**Robert Davis**  
**v.**  
**Town of Jackson**

**Docket No. 5955-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 79-A:10, the "Town's" land use change tax of \$4,500 on approximately one-third of an acre of land off Rte. 16-B The Town assessed the tax on October 10, 1989 occasioned by the Taxpayer installing a manufactured home, well, septic and driveway on a parcel of land totalling 53.46 acres.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the their 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 the assessment was excessive because:

- 1) the third of an acre sets back from the road and does not have the frontage or area needed to be sold as a separate lot;
- 2) the Town's other assessments for land use change tax apurposes from 1983 to 1990 have all been for less value on a per acre basis;
- 3) four to twelve acre lots on Rte. 16-B were selling for approximately \$60,000;
- 4) the Tapayer sold one lot from this parcel of 2 acres with a barn in 1990 for \$35,000.

Based on the evidence, we find the correct assessment should be \$24,000 with a resulting land use change tax of \$2,400.

In appraising small parcels of land that no longer qualify for current use and are not large enough to stand alone as a separate lot under existing town land use ordinances, their value is best determined by estimating their

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contributory value as a prime site or house site to a hypothetical lot. In this case 2 acres with 200 feet of frontage is the minimum lot size in Jackson. However, based upon the evidence it appears that most new lots in Jackson were larger than the minimum (approximately four to six acres) and were selling fairly consistently for \$60,000. The one-third acre that no longer qualifies for current use could be considered as the prime site of a larger hypothetical lot. It is the Board's experience that a prime site of one-third an acre can contribute approximately 40% towards the total lot value. Thus a reasonable estimate of the one third acre site is \$24,000 ( $60,000 \times .40$ ).

If the taxes have been paid, the amount paid on the value in excess of \$24,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq.,  
Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert Davis, taxpayer; and

Chairman, Selectmen of Jackson.

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Brenda L. Tibbetts, Clerk

Date:

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