

**Robert D. Lepine and Mary R. Lepine**

**v.**

**Town of Bristol**

**Docket No. 6032-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$21,450 (land only) and \$7,450 (land only) for parcels identified as R12, Lot1, and R12-Lot 49 respectively. R12-Lot 1 is an unimproved lot of approximately one-quarter of an acre in a subdivision known as Holiday Hill. R12-Lot 49 is the Taxpayer's 1/43rd interest in a common beach area on Newfound Lake that is associated with the ownership of Lot R12-1. 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 this burden and proved they were disproportionally taxed.

The Taxpayer argued the assessment was excessive because: 1) the lot was unbuildable due to its small size and a stream bisecting the lot; 2) the lot could not support a septic system due to its poor drainage and state regulations dealing with distances of septic systems to surface water, and 3) the lot was purchased by the Taxpayer in August of 1989 for \$5,000.

The Town argued the assessment was proper because: 1) the sale of the lot to the Taxpayer does not necessarily create a market; 2) the lot was given a 50% adjustment for its unbuildable nature which was consistently done throughout the Town, and 3) there was some present recreational value to the lot and some speculative value if and when municipal sewer was brought to the site.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$6,550 for R12-1 and that the 1/43rd interest assessment (R12, Lot 49) should be reduced by 50% to \$3,750 to reflect the fact that the lot with which it is associated cannot be built on and presently fully utilized. This assessment is further ordered because: 1) the interest in the common area cannot be transferred separate from the main lot; 2) the lot cannot be used for tenting, trailers, etc. except for during construction of a dwelling according to the property's protective covenants; 3) the soil and topography conditions of the lot preclude any on-site septic system; and 4) the sale of this lot to the Taxpayer, while not totally disregarded, is not conclusive evidence of market value; questions remain due to lack of proper exposure to the market.

If the taxes have been paid, the amount paid on the value in excess of \$10,300 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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George Twigg, III, Chairman

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

Date: June 6, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert D. & Mary R. Lepine, taxpayers; and the Chairman, Selectmen of Bristol. Also, Richard Young, Director, Property Appraisal Division, Department of Revenue Administration.

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Melanie J. Ekstrom, Deputy Clerk

Date: June 6, 1991

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