

Richard I. Gourley  
v.  
Town of Hopkinton

Docket No. 6201-89 and 9304-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$10,350 (land only) and 1990, \$10,350 (land only) Map 258, lot 71 (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry his burden and prove any disproportionality.

The Taxpayer argued the assessment was excessive because the lot is unbuildable. Further, the Taxpayer added that a small mound of land in the back acreage might be built on, but access would require some wetlands dredge and fill approval.

The Town was represented by Mr. George Bean, part-time assessor and Mr. John Prewitt, Selectman. The Town argued the assessment was proper because the 3.4 acres is assumed to be buildable absent evidence to the contrary. The lot is grandfathered with respect to the minimum frontage required under current zoning. The Town did, however, make an adjustment for configuration, access and difficulty to develop. The Town's Mr. Bean estimated that a buildable lot in the section of town where the subject lot is located would be worth \$50,000 at least.

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The Board finds the Taxpayer failed to supply convincing evidence that the lot is unbuildable such as a denied application for a permit to build from the Town or other evidence to show disproportionate assessment. There may be a possibility that the subject lot could qualify for current use in a wetland classification as one of the exceptions to the 10 acre minimum requirement. See REV 1205.06. We find the correct assessment should be \$10,350 (land only). This assessment is ordered for both tax years 1989 and 1990.

We find the Taxpayer failed to prove his assessment was disproportional. We also find the Town supported the Property's assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Richard I. Gourley, taxpayer; and Chairman, Selectmen of Hopkinton.

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Melanie J. Ekstrom, Deputy Clerk

Date: March 5, 1992

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