

**Maurice H. Lachance, Jr. and Lucille Lachance**  
**v.**  
**Town of Alton**

**Docket No. 6250-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$167,300 (land, \$111,400; buildings, \$55,900) on Keewaydin Park, Map 49, Lot 14 consisting of 0.20 of an acre of land with dwelling (the Property). 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 disproportionately taxed.

The Taxpayers argued:

- (1) The Property, located in Keewaydin Park, was purchased through a private sale for \$61,000 in September, 1984. The Property was not on the market, the sale price was established by a fair market appraisal completed for the seller whose husband died in the winter of 1983.
- (2) Keewaydin Park is an association of twenty landowners who own and maintain their own roads. All twenty owners have deeded beach rights and all lots are within several hundred feet of the beach and docking area. The Town's effective frontage formula allows the Town to raise a disproportionate amount of its tax dollars from a limited segment of taxpayers.
- (3) A view factor of \$5,000 was assessed by the Town; the view is 95 percent blocked water view, the view is of the beach 150 feet from shore.

(4) The Property is a seasonal building with town water provided from mid-April to mid-October; no central heating system, minimal insulation and a marginal septic system. The Property should not be assessed on the same basis as its neighboring year round properties.

(5) The building measures 24 x 30, not 24 x 32 as shown on the assessment card. Comparisons of assessed buildings indicate square foot assessments ranging from \$34.24 to \$56.88 and the subject is assessed at \$77.63 per square foot. The building value should be adjusted downward to \$36,000.

(6) A comparison of assessed land values indicates that the Property's land is overassessed and the land value should be adjusted downward to \$70,000.

(7) The value of the property as of April 1, 1989 is \$110,000.

The Town argued:

(1) The effective frontage assessment is for access to the lake.

(2) The view factor is the lowest factor given in the Town of Alton, the range being from \$5,000 to \$20,000.

(3) Off-water, improved properties in Keewaydin Park have sold in the \$165,000 to \$225,000 range. There is no evidence of \$110,000 to \$120,000 sales in this lake colony.

(4) The Taxpayers' comparable sale price of \$70,000 for 38-35 is indicative of what a lot with severe topography and far from the access lot was worth at the time of the sale. Much site preparation was needed to ready the site for building.

The Town submitted comparable sales of properties with lake access. The Taxpayers objected to three of the comparables on the grounds that they were not notified ten days before the hearing date that they would be used. The Board allowed the Town ten days to review page 2 (comparables) of Town's Exhibit A to certify to the Board by name and lot number those comparables that the Taxpayers were not notified of. The Board also asked the Town to remeasure the foundation and submit its findings within ten days. On August 12, 1991, the Town submitted copies of tax cards used by the Town as part of the case and a certification of the measurement of the dwelling calculated to be 24 x 30 by Wil Corcoran, Alton Town Assessor, which would yield a building value of \$54,400. The Town did not

indicate which comparables they did not advise the Taxpayers of as requested by the Board.

The Taxpayer responded to the Town's submissions on August 14, 1991, and enclosed a copy of the July 22, 1991, letter from Diantha S. Moulton, Assessing Clerk for the Town of Alton in which she advised the Taxpayers of the names of the comparable properties the Town would be using at the hearing. The Board has reviewed this list against the list supplied by the Town. The board will not consider the three properties on Town's Exhibit A which were not on the list, namely: Lot 19 Acquired Realty Trust of NH, Lot 15 Bella, and Lot 28 Reynolds.

Based on the evidence, we find the correct assessment should be \$159,200 (land \$104,800 and building \$54,400). This assessment is ordered because further topographic adjustment to the land is proper and the building assessment has been adjusted to incorporate the Town's corrected measurements.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Maurice H., Jr. and Lucille Lachance, taxpayers; and the Chairman, Selectmen of Alton.

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Brenda L. Tibbetts, Clerk

Date: November 7, 1991

0009