

Donald and Myrna Pearson

v.

Town of Whitefield

Docket Nos. 6292-89 and 8742-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessment of \$112,300 (land, \$34,100; buildings, \$78,200) on their real estate on Mirror Lake, consisting of a dwelling and two lots totaling 1.98 acres (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 disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

- (1)the frontage and depth of the land was incorrectly calculated;
- (2)much of the land is poor with some wetland and a stream;
- (3)the road accessing the Property is a private gravel unmaintained road;
- (4)the land value is disproportionate due to inconsistent adjustments made to comparable lots;
- (5)the dwelling should be graded a class 4 rather than a 4 1/2; and
- (6)the jacuzzi is portable and thus not taxable since it is personalty.

The Town recommended a revised assessment of \$102,800 and argued it was proper because:

- (1)it corrected the grade from a 4 1/2 to a 4 and removed the assessment of the jacuzzi;

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- (2)the land adjustments to the Taxpayers' assessment and the comparables presented by the Taxpayer were consistent and attempted to recognize the relative positive and negative aspects of the lots;
- (3)the actual frontage measurements were not used in calculating the land value; a weighted calculation known as triangulation was done to account for the non-rectangular shape of the lots; and
- (4)the Property was purchased in March of 1986 for \$159,000 and the assessment was proportional to market value at that time.

Based on the evidence we find the correct assessment should be \$98,750 (land, \$30,050 and building \$68,700). This assessment is ordered because:

- (1)the Town calculated the lot to its full depth;
- (2)the topography adjustment should be reduced to times 75 to account for the wetness of portions of the land;
- (3)the very limited sales and cost evidence that was submitted (dwelling insured for \$160,000 to \$170,000 and the 1987 purchase by Eulys and Priscilla Johnson of a vacant lot on Mirror Lake for \$85,000) indicated a market value of \$240,000 to \$260,000; and
- (4)an assessment of \$98,750 is reasonably proportional to the general level of assessments for 1989 and 1990 as indicated by the finding of market value of \$240,000 to \$260,000 and the 1989 and 1990 equalization ratios of 34 percent and 43 percent.

If the taxes have been paid, the amount paid on the value in excess of \$98,750 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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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Property Tax Reduction Consultants, Representative for the Taxpayers; and Chairman, Selectmen of Whitefield.

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Valerie B. Lanigan, Clerk

Date: April 9, 1992

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