

Priscilla and Eulys R. Johnson

v.

Town of Whitefield

Docket Nos.: 6293-89 and 8741-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of:

Map/Lot	<u>29/5</u>	Land	\$ <u>28,750</u>	Bldg.	\$ <u>52,150</u>	Total	\$ <u>80,900</u>
Map/Lot	<u>29/5-1</u>	Land	\$ <u>16,400</u>	Bldg.	\$ <u>---</u>	Total	\$ <u>16,400</u>
Map/Lot	<u>7/10-3</u>	Land	\$ <u>5,500</u>	Bldg.	\$ <u>---</u>	Total	\$ <u>5,500</u>

(the Properties). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessments were 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 disproportionality.

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The Taxpayers argued the assessments were excessive because:

- (1) property is off Lancaster Road on a Class VI road (boat launch) two lots (one waterfront with a building and the second a rear lot with right-of-way access to lake);
- (2) a noise problem exists with early morning boaters;
- (3) the house was built by Vermont Log Buildings; and
- (4) the bath is incorrectly assessed.

The Town agreed the assessment needed to be adjusted for the bath. The Town and the Taxpayers came to an agreement on the back lot (29/5-1) of \$6,550. This lot is not contested.

Based on the evidence, we find the correct assessment should be \$72,800 (land \$21,000 and building \$51,800). This assessment is ordered because the board agreed the assessment needed adjustment to reflect the negative impact of the Class VI road access as well as the "public nuisance" effect caused by the boat launch activities. Further, a building adjustment was made for the bath.

If the taxes have been paid, the amount paid on the value in excess of \$72,800 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Property Tax Reduction Consultants, representative for the taxpayers; and Chairman, Selectmen of Whitefield.

Dated: July 7, 1992

Valerie B. Lanigan, Clerk

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