

Helen J. Draper

v.

City of Franklin

Docket Nos.: 6298-89 and 8324-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1989 and 1990 assessments of \$35,600 (land only) on her real estate off Webster Avenue, consisting of a vacant 1.4 acre lot (the Property). The Taxpayer failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayer was not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessments were 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 carried this burden and proved disproportionality.

The Taxpayer argued the assessments were excessive because:

- (1) the Property has been listed at \$32,500 and \$29,500 and has been unable to sell at those prices; and

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(2) an appraisal as of May 25, 1987 estimated the Property's market value at \$7,900.

The City argued the assessment was proper because:

- (1) it has a partial view and beach rights to the lake;
- (2) it is priced similarly to comparable lots belonging to Desrochers, Adams and McClary;
- (3) the market slowed in 1989 and values dropped in 1990-1991; and
- (4) although it was appraised at \$7,900 in 1987, the Property was on the market in 1989 for \$29,000.

Based on the evidence, we find the correct assessment should be \$31,700 (land only). The new assessment is ordered because the board finds an additional 10% depreciation for access (35%) should be applied.

If the taxes have been paid, the amount paid on the value in excess of \$31,700 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Helen J. Draper, Taxpayer; Chairman, Board of Assessors of Franklin; and Scott Bartlett, MMC.

Dated: July 22, 1992

Valerie B. Lanigan, Clerk

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