

Mary Ann McCulley and Laurence J. Stanford, Jr.

v.

Town of Alton

Docket No. 6304-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$283,600 (land, \$214,400; buildings, \$69,200) on 0.19 acres of land with the dwelling on Rte. 11D (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 in comparing the Property with Lot 21, which has 0.8 acres of land, the assessed land value of Lot 21 is approximately ten percent greater than the property. The Taxpayers also testified that Lot 21 is three to four times larger. The contour of Lot 21 is a slow gradual grade to the lake with a 270 degree view up and down the lake.

In comparing the Property with Lot 29, which was 0.36 acres of land, the assessed land value of Lot 29 is approximately ten percent greater than the Property. The Taxpayers argued that Lot 29 was as steep and a 10 percent topography adjustment was made to Lot 29 for the steep grade.

The Town argued the assessment was proper because the properties along Rte. 110 are relatively steep on the east side going to the lake. They differ in degrees of severity from the slope to the water and from the street to the homesites. The Town further argued that it was difficult to make a one on one

match because in some cases there were defacto lots caused by the highway (Rte.

11D) going through, therefore properties on the west side of the highway needed to be taken into consideration. The Property is a stand alone and is on the water side; Lots 27 and 29 are also stand alones and are severely steep. The Town argued that the topography of Lot 21 is less severe when compared to the Property, but the waterfront is equally as steep. The Town argued, after review of Lot 21's property assessment card, there may have been an underassessment and therefore will be revisiting the property.

Based on the evidence we find the correct assessment should be \$265,090 (land, \$195,890 and building \$69,200). This assessment is ordered because a ten percent adjustment for the steep access to the water is appropriate. In reviewing the evidence, the Board agrees that Lot 21 could be underassessed. To fail to correct an oversight on one waterfront property results in a corresponding disproportionate assessment of similar properties.

If the taxes have been paid, the amount paid on the value in excess of \$265,090 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

Date: October 10, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Mary Ann McCulley and Laurence J. Stanford, Jr., taxpayers; and the Chairman, Selectmen of Alton.

Brenda L. Tibbetts, Clerk

Date: October 10, 1991

0009