

John C. Hankus, Sr.

v.

Town of Atkinson

Docket No.: 6308-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$188,600 (land, \$105,100; buildings, \$83,500) on Map 23, lot 79 (.37 acres) on Houles Grove Road (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 assessment was 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 assessment was excessive because:

- (1) the property is in a swamp;
- (2) the house was built with second hand lumber (circa 1940);
- (3) water is in the pond 6 months of year (well polluted);

(4) there is limited use of boats; and

(5) can't swim in water (weeds).

The Town argued the assessment was proper because:

(1) a marshy factor was given (2.10); and

(2) similar "water influence" properties were valued consistently.

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Based on the evidence, we find the correct assessment should be \$183,600 (rounded) (land \$100,095 and building \$83,500). This assessment is ordered because the Board finds the land condition factor should be reduced from 2.10 to 2.00.

If the taxes have been paid, the amount paid on the value in excess of \$183,600 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

_____ Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John C. Hankus, Sr., taxpayer; and Chairman, Selectmen of Atkinson.

Dated: September 30, 1992 _____
Melanie J. Ekstrom, Deputy Clerk

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