

David S. Kelley

v.

Town of Sandown

Docket Nos.: 6333-89 and 8483-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments on Map 10, Lot 8 of \$83,000 (land only) and Map 10, Lot 9 of \$5,200 (land only). Map 10, Lot 8 consists of 4.0 acres of land and Map 10, Lot 9 consists of 17,860 square feet of land (the Properties). 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:

Lot 8

- (1)it is bounded by the road and a recreation trail in the back;
- (2)the terrain is poor;

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- (3) the first 200 feet going away from the river is a swamp and not a buildable lot;
- (4) the Town has assessed the lot as having a potential of being subdivided into two lots and it is highly speculative as to whether two lots could be built because of the topography; and
- (5) as of April 1, 1989, the Property would probably list for \$65,000 and the same as of April 1, 1990.

Lot 9

- (1) it is a non-buildable lot and is not marketable;
- (2) it is bound by the river, the road and another property to the rear, and is very steep coming down toward the river;
- (3) its only value is to its abutter and it will probably be sold to the abutter for less than \$1,000; and
- (4) square footage calculation is less than the Town's calculation.

The Town agreed to adjust Lot 8 to \$70,000 to reflect the Taxpayer's concerns. The Town submitted a list of sales to support the \$70,000 figure. The Town reviewed its assessment on Lot 9, stating the lot had value to an abutter.

Based on the evidence, we find the correct assessments should be:

Lot 8 -- \$65,000 because the Taxpayer raises sufficient concerns about whether the lot can be subdivided and the Taxpayer's asking price indicates

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overassessment; and

Lot 9 -- \$2,000 because the additional land to the abutter's "large" lot does not warrant a \$5,000 assessment.

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If the taxes have been paid, the amount paid on the value in excess of \$67,000 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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to David S. Kelley, Taxpayer; Chairman, Selectmen of Sandown; and Scott Bartlett, MMC.

Dated: July 29, 1992

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Valerie B. Lanigan, Clerk

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