

Paul M. Kneeland

v.

Town of Alton

Docket No. 6340-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$205,600 (land, \$93,500; buildings, \$112,100) on his real estate consisting of a dwelling, boat house, and a .25-acre lot on Route 11, (the Property). 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 he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

1) the property has no deeded rights to Lake Winnepesaukee, only a license to access the water and boat house across land owned by the State of New Hampshire (Route 11);

2) he was taxed for a dock that did not belong to him; and

3) the Town did not adequately adjust the assessment for the proximity of the house to Route 11 and the topography of the lot.

The Town argued the assessment was proper because:

1) the New Hampshire Department of Transportation has allowed the taxpayers to access the water and use the boat house on State land;

2) the Town had made adjustments for the quality of the dwelling, the rear-porch area, the topography of the lot, the building set-back and the lack of public water; and

3) the six comparable sales indicate that to reduce the assessment any lower would cause the Taxpayer to be disproportionately underassessed.

Based on the evidence, we find the correct assessment should be \$201,100 (land \$93,500 and building \$107,600). This assessment is ordered only because the remaining dock assessed to the Taxpayer is not owned by the Taxpayer. No further abatement is justified as the Taxpayer failed in proving that the assessment, as adjusted, is not reasonable or proportionate to the general level of assessment in the Town.

If the taxes have been paid, the amount paid on the value in excess of \$201,100 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

August 6, 1991

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin

Ignatius MacLellan, Esq.

I certify that copies of the within decision have been mailed this date, postage prepaid, to Paul M. Kneeland, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Alton.

August 6, 1991

Brenda L. Tibbetts, Clerk

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