

Robert W. Kingsbury

v.

Docket Nos. 6406-89 and 8702-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessment of \$183,900 (land, \$51,500; buildings, \$132,400) on his real estate on Route 12, consisting of a dwelling on 10 acres (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 disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) only 1.82 acres are in a commercial/industrial zone; 8.18 acres are in a residential zone;
- (2) the assessment record card indicates all 10 acres are in a commercial/industrial zone;
- (3) 6 acres are considered wetlands;
- (4) a deeded right-of-way is unusable because an appraisal as of June, 1992,

estimated the market value of the property, with the house in an unfinished state, at \$142,000.

The Town recommended a revised assessment of \$173,900 due to wetness of the rear land. The Town argued the revised assessment was proper because the residential zone has the same base-unit price and minimum lot size as the commercial/industrial zone.

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Board's Rulings

Based on the evidence, we find the correct assessment should be \$173,900 (land \$41,500 and building \$132,400). This assessment is ordered because the board finds no value distinction was imposed by the Town on residential versus commercial/industrial zone. We concur with the Town's recommended reduction for land (wetness).

If the taxes have been paid, the amount paid on the value in excess of \$173,900 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

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert W. Kingsbury, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Westmoreland.

Dated: October 8, 1992

Melanie J. Ekstrom, Deputy Clerk

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