

Albert A. and Phyllis L. Simoneau

v.

City of Franklin

Docket No.: 6435-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 assessments of \$78,700 (land, \$58,900; buildings, \$19,800) on Lake Shore Drive and a lot for \$1,600 (land only) (the Properties). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessments were 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 disproportionality.

The Taxpayers argued the assessments were excessive because:

- (1) it is across the street from the lake (50 feet by 65 feet);
- (2) there is no city water - sewer;
- (3) there is a dug well, not drinkable;
- (4) water is taken from the lake - bottled water used for drinking;
- (5) a raised septic would be required for replacement; and

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(6) Clark's lot is the same (new well and septic in 1986). The subject camp has no heat or insulation; floor levels vary from room to room (built in 1930); correct assessment should be in "mid-fifties" (including a land only "water" access lot assessed for \$1,600).

The City argued the assessments were proper because:

- (1) the camp has lake access;
- (2) all three camps are year-round;
- (3) they are assessed as "no heating";
- (4) Simoneau is charged for 1/2 bath; and
- (5) Mautte property sold for \$65,000 (10/88).

However, they would adjust for the well and apply -5% to the land.

Based on the evidence, we find the correct assessment should be \$69,400 (land \$53,000 and building \$16,400). This assessment is ordered because a 10% adjustment was given to the land to reflect the functional limitations of the well and septic. An additional 10% depreciation was given to the camp for its age and condition. This new assessment is in line with market data supplied by the Town.

If the taxes have been paid, the amount paid on the value in excess of \$69,400 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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 Phyllis L. Simoneau, Taxpayer; Chairman, Board of Assessors of Franklin; and Scott Bartlett, MMC.

Dated: July 28, 1992

Valerie B. Lanigan, Clerk

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