

**Frank A. Michelson and Joan Michelson**

**v.**

**Town of Fitzwilliam**

**Docket No. 7091-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$88,200 (land, \$74,500; buildings, \$13,700) and \$96,700 (land, 35,000; buildings \$61,700) for Map 26 - lot 7 and Map 26 - lot 9, respectively (the Property).

Map 26 - lot 7 consists of a .3 acre lot on Sip Pond improved with two seasonal camps.

Map 26 - lot 9 consists of 1.5 acres on Turnpike Road improved with three seasonal cottages and two mobile homes.

For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessment was 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 they were disproportionally taxed.

The Taxpayers argued:

lot 7:

- (1)the waterfront was mostly unusable due to ledge; and
- (2)the buildings have no electricity or water to them.

lot 9:

- (1)the buildings are not elaborate; and
- (2)all five buildings are seasonal and are situated on 1 1/2 acres.

In general, the Taxpayers argued the Property was worth only 60 to 70 percent of its assessment and that their taxes had increased 600 to 800 percent from

1988.

Docket No. 7091-89

Frank A. Michelson and Joan Michelson

v. Town of Fitzwilliam

Page 3

The Town argued:

lot 7:

- (1)the frontage was typical of most of Sip Pond frontage in the area and thus no specific adjustment for the ledge was warranted; and
- (2)the Town had assessed the first 100 feet of frontage at \$700 per foot and then any additional frontage at \$200 per foot.

lot 9:

- (1)the lot affords privacy;
- (2)the use of the five units was grandfathered in; and
- (3)the units are rented.

Based on the evidence we find the correct assessment should be lot 7 - \$88,200; lot 9 - \$84,550 (land, \$35,000; buildings \$49,550). This assessment is ordered because:

lot 7: the Taxpayers failed to prove that the assessment was in excess of market value or that it was disproportionate; the Town supported its methodology and base values.

lot 9: based on the evidence, the buildings need more depreciation to reflect their proper contributory value; the board's inspector's report is the best evidence of the buildings' values.

If the taxes have been paid, the amount paid on the value in excess of \$172,750 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

---

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Frank A. Michelson and Joan Michelson, taxpayers; and Chairman, Selectmen of Fitzwilliam.

---

Melanie J. Ekstrom, Deputy Clerk

Date: February 19, 1992

Docket No. 7091-89

Frank A. Michelson and Joan Michelson

v. Town of Fitzwilliam

Page 4

0007