

William A. Frazier

v.

Town of Goshen

Docket No.: 7098-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$69,450 (land, \$48,500; buildings, \$20,950) on a .06-acre lot with a seasonal house off Rand Road (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) it exceeded market value, the Property being worth about \$50,000;
- 2) the Property is not waterfront;
- 3) the Property shared a septic system on another lot but now only has a holding tank;

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4) the lot is very small and is surrounded by the parking lot for the common beach; and

5) the Property is only for seasonal use.

The Town argued the assessment was proper because:

1) the land assessment was arrived using the back-lot price for the frontage and a -5% topography reduction was given;

2) it was assessed similarly with Lot 85 and consistent with the sale of Lot 82; and

3) it was reduced to address the Taxpayer's concerns.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$51,600. (land \$29,500 and building \$22,100). This assessment is ordered because:

1) the Town assessed the land based on a site value but did not adequately adjust the site value for the small lot size--almost all taken up by the house and deck--the location in the parking lot or for the inability to install a septic system; and

2) the board has reduced the site value by-40% to adjust for these factors.

If the taxes have been paid, the amount paid on the value in excess of \$51,600 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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William A. Frazier, Taxpayer; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 27, 1993

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Valerie B. Lanigan, Clerk

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