

**Joyce H. Brewster**

**v.**

**Town of Pittsfield**

**Docket No.: 7330-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$179,200 (land, \$53,500; buildings, \$125,700) on a lot with 6 acres and a one-story home (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) the view factors appear to be assessed unequally throughout the Town (properties with views and not assessed: Daroska, Griggs, Lagniappe Enterprise, Inc., Charles River Breeding Lab, Levesque, Troughton, Kimball, Carson, Keach, Fox, Newton, Prevere) - (properties assessed for views but not assessed by same

standard: Simard, Freese, Stiles, Pethic);

(2) the land condition factor is not consistent between comparable land as comparable properties (Fraser, Charron, Watson) have significant reductions in areas of land values;

(3) the land has topographical problems and has a standing body of swamp of approximately 1 acre; and

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(4) the fair market value in April, 1989 is estimated to be between \$145,000 and \$149,000.

The Town argued the assessment was proper because:

- (1) comparable sales (Cornelissen, Meserve) support the assessment;
- (2) there are properties in Town that should have received a view factor and have not;
- (3) properties in current use were assessed at an ad valorem value first and then credit was given for land in current use;
- (4) the subject's view is relevant to the Property and is somewhat grand as you approach the Property;
- (5) Industrial and commercial properties are appraised for their highest and best use and the views are not usually addressed; and
- (6) the Town has made a 20 percent adjustment to the 4.0 acres backland for the wetness problem and an additional 10 percent adjustment would not be out of line for the topographical problems which were not addressed.

### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$170,500 (land, \$44,800; buildings, \$125,700). This assessment is ordered because the board finds, based upon the comparable assessments submitted by the Taxpayer, that a condition factor of 1.25 is more reasonable and has made a 10 percent adjustment to the 4.0 acres for topography.

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If the taxes have been paid, the amount paid on the value in excess of \$170,500 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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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joyce H. Brewster, Taxpayer; and Chairman, Selectmen of Pittsfield.

Dated: September 16, 1992

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Melanie J. Ekstrom, Deputy Clerk

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