

Robert K. Hahn
v.
Town of Stoddard

Docket No. 7335-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$27,911 (land, \$2,500; buildings, \$25,411) on his real estate, consisting of a dwelling and garage on a .2 acre lot on Highland Lake (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 he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- (1) the State Water Resource Board acquired a permanent easement along the easterly property line for maintaining a dike on Highland Lake;
- (2) a much larger lot owned by E. & M. Roentsch on the opposite side of Highland Lake was assessed for only slightly more;
- (3) their assessment in 1990, after a town wide reassessment, was \$89,750 which they felt was reasonable and more proportional to the Roentsch's new assessment of \$131,050.

The Town argued:

- (1) the land value of the taxpayers and all owners on Highland Lake had been consistently calculated at \$50 per foot of lake frontage; and no adjustment had been given for the permanent easement of the State since it was not recorded until after April 1, 1989.

Based on the evidence we find the correct assessment should be \$18,050. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.) We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

Further, this assessment is ordered because:

- (1) the 1990 assessment, agreed by both parties as being reasonable, is some evidence of the property's 1989 market value;
- (2) both parties agreed that real estate values had perhaps started their decline in 1989 to 1990;
- (3) the 1990 assessment was adjusted for the State's easement;
- (4) such adjustment is also warranted for 1989 because the easement, while not recorded until after April 1, 1989, was being negotiated and would have affected the property's market value as of April 1, 1989;
- (5) based on the facts the Board rules the 1989 market value of the property was \$95,000;
- (6) the general level of assessment in 1989, as indicated by Stoddard's equalization ratio, was 19 percent, thus the indicated assessment in 1989 is \$18,050 ($95,000 \times .19$).

If the taxes have been paid, the amount paid on the value in excess of \$18,050 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Hahn v. Stoddard

Page 3

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert K. Hahn, taxpayer; and Chairman, Selectmen of Stoddard.

Valerie B. Lanigan, Clerk

Date:

0003