

Trustee for Stanton Children's Trust

v.

Town of Conway

Docket No. 7345-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$311,300 (land, \$231,800, buildings, \$79,500) on a single-family home on Conway 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 it was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- 1) the Property lies on an inlet with poor waterfront access;
- 2) there is no subdivision potential;
- 3) there are no town services or road; and
- 4) the site value of \$200,000 was excessive compared to other properties in the inlet.

The Town argued the assessment was proper because it was consistent with similar properties and within an acceptable range.

Based on the evidence, we find the correct assessment should be \$280,575 (land, \$201,075; buildings, \$79,500). This assessment is ordered because the basic site should be at \$175,000, not \$200,000, because of its location and marsh problems. This conclusion is reinforced by the Town's assessment of \$200,000 for the first acre on properties directly on the lake.

Thus, the land should be calculated at \$175,000 for the first acre plus \$26,075 for the additional land (\$17,500 x 1.49 acres). This adjustment brings the Property in line with other properties and recognizes the problems with the water access and location.

If the taxes have been paid, the amount paid on the value in excess of \$280,575 is to be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq.

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Thomas W. Stanton, Esq., representing the Taxpayer, and to the Chairman, Board of Selectmen, Town of Conway.

Brenda L. Tibbetts, Clerk

