

**John H. and Sherry L. Grover**

**v.**

**Town of Hampstead**

**Docket No.: 7356-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$159,100 (land only) on a 3.0 acre lot on Route 111 (the Property). The Taxpayers own, but did not appeal, several other properties in the Town. 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) this 3.0 acre parcel is landlocked as a result of a State condemnation (has no legal access off Rte. 111);
- (2) 90 percent of the land is swamp;
- (3) an undated letter from Carol Linehan, Peak Realty, Inc. advised that the

Property's only value is to an abutter and estimated a back land value of \$1,000 to \$1,500 per acre;

(4) the abutter has offered to purchase the Property (in 1990 and 1991) for \$5,000;

and

(5) an Option to Purchase by Commercial Developers, Inc. for \$15,000 was never exercised.

John H. and Sherry L. Grover

v. Town of Hampstead

Docket No.: 7356-89

Page 3

The Town argued the assessment was proper because:

- (1) it was their understanding that the Property had limited access;
- (2) based on the Taxpayers' exhibit, the Town agrees that the Taxpayers do not have legal access to the Property;
- (3) based on this information, the Town recommends an assessment of \$5,000; and
- (4) the Assessor further indicated that it was his intent to recommend that the \$5,000 adjusted 1989 assessment be applied to the 1990 tax year.

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

Based on the evidence, we find the correct assessment should be \$5,000. This assessment is ordered because the Property clearly had no physical or legal access and the Town erred in not recognizing this basic limitation to value. The board strongly recommends that the \$5,000 assessed value for the 1989 tax year be applied to the 1990 tax year.

If the taxes have been paid, the amount paid on the value in excess of \$5,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

John H. and Sherry L. Grover

v. Town of Hampstead

Docket No.: 7356-89

Page 4

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John H. and Sherry L. Grover, Taxpayers; and Chairman, Selectmen of Hampstead.

Dated: October 6, 1992

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Melanie J. Ekstrom, Deputy Clerk

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