

Harry R. and Maybelle F. Thompson

v.

Town of Pittsfield

Docket Nos.: 7411-89, 8331-90 and 11099-91 PT

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989, 1990 and 1991 assessments of \$40,200 (land only) on 4.7 acres (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessments were 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 assessments were excessive because:

- (1) the brook that drains out of Eaton Pond crosses a portion of the rear lot with some associated wetlands;
- (2) the parcel has the potential of only one house site, not two as assessed by the Town;
- (3) an appraisal prepared by RJC & Assoc. estimated the market value as of April

1989 at \$32,000; and

(4) an old house has to be demolished and associated debris would need to be cleaned up before the site could be redeveloped.

The Town argued the assessments were proper because:

(1) the lot has the potential for a two lot subdivision;

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(2) 225 frontage is the minimum zoning requirement for the Taxpayer's property;  
(3) five comparables support the assessment of \$40,200; and  
(4) if the lot is shown not to have subdivision potential, the value argued by the Taxpayers would be reasonable.

### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$34,700 (land only). This assessment is ordered because:

1) based on the soils information it is questionable that the parcel could be subdivided; and  
2) the Town's frontage assessment of \$5,500 for the lot's subdivision potential should be deleted.

If the taxes have been paid, the amount paid on the value in excess of \$34,700 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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

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I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Harry R. and Maybelle F. Thompson, Taxpayers; Ralph J. Cutting, Representative for the Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: September 9, 1992

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Melanie J. Ekstrom, Deputy Clerk

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