

R. Eric and Margaret J. Jones

v.

Town of Pittsfield

Docket No.: 7413-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$84,800 (land only) on a 46 acre lot (the Property). 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) it is disproportionate relative to the total reassessed value in the Town;
- (2) the Town violated the State law which is based on an ad valorem system in which the value of the Property cannot exceed the highest and best use of the Property - the total value of the Town has increased by 3.4 times and the assessed value of the subject has increased by 6.7 times;

- (3) the Property has less than 300 feet of road frontage and only one house can be built because of the zoning;
- (4) the Property is not served by water or sewer;
- (5) the Property drops off at a sharp angle down to a low point where there is a wet area of approximately 6 acres year round; and
- (6) the Taxpayer represents the fair market value on April 1, 1989 to be \$46,000.

The Town recommended that the assessment be adjusted to reflect a 29% adjustment for size and a further adjustment for topography (wetland) of 35%.

To be consistent with other similar properties (with adjustments) the town's representative, Mr. Gary Roberge, recommends a corrected assessment in the amount of \$63,200 for the 46 acre subject Property.

Board's Rulings

A greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property. Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985). The Property was for sale from 1980 to 1989 and the asking price according to the Taxpayer was \$75,000.

Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment.

Based on the evidence, we find the correct assessment should be \$63,200.

This assessment is ordered because the board finds the Town's adjustment to be reasonable and consistent with the evidence and testimony presented.

If the taxes have been paid, the amount paid on the value in excess of \$63,200 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

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to R. Eric and Margaret J. Jones, Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: July 15, 1993

Valerie B. Lanigan, Clerk

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