

Arad L. Philpott and Judith D. Philpott

v.

Town of Kingston

Docket No. 7468-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$183,900 (land, \$102,100; buildings, \$81,800) on their real estate, consisting of a dwelling on a 9.5 acre lot at 116 Exeter Road (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 they were disproportionally taxed.

The Taxpayers argued:

- (1)the land has a high water table and was determined not to be feasibly subdividable after extensive soil analysis;
- (2)the parcel is too small to qualify for current use;
- (3)the lot should not be taxed as other land that does have development potential; and
- (4)an appraisal done for a bank estimated the market value of the Property at \$181,000 in March 1989.

The Town testified:

- (1)it appraised 200 feet frontage in addition to the frontage for the house site for the parcel's development potential;
- (2)the 8.5 acres of excess land was reduced 40 percent for size and topography;

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(3)it submitted a spreadsheet comparing the Taxpayer's Property to five comparables and analyzing the properties; and

(4)that if the evidence was conclusive that there was no potential for development, the assessment would be \$12,000 lower.

Based on the evidence we find the correct assessment should be \$175,800 (land, \$94,000 and building \$81,800). This assessment is ordered because:

(1)it is not economically feasible under current market conditions to subdivide the parcel given its high water table and configuration; and

(2)however, frontage generally does contribute some value (privacy, view, etc.) above and beyond simple excess acreage value.

If the taxes have been paid, the amount paid on the value in excess of \$175,800 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Arad L. Philpott and Judith D. Philpott, taxpayers; Chairman, Selectmen of Kingston, and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Melanie J. Ekstrom, Deputy Clerk

Date: February 21, 1992

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