

Donald Damm and Nancy L. Damm

v.

Town of Washington

Docket No. 7481-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$116,010 (land, \$56,000; buildings, \$60,010) on a 1 1/2 story chalet style home within a private development known as Lake Ashuelot Estates, consisting of 1.2 acres with 110 feet of waterfrontage and 160 feet of road footage (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 the assessment was excessive because:

- (1)two of the Town's comparables (L-48, L-2) were not arms length transactions;
- (2)the figured frontage figure is not fair as it gives equal weight to the unit value of the road frontage and the unit value of the shore frontage; and
- (3)the Town should have used the square foot method.

The Town argued:

- (1)that the Taxpayers were liable for 135 feet effective frontage;
- (2)that the entire Town was done the same;
- (3)that all sales were land only;
- (4)that the Taxpayers have a septic system and structure; and

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(5)that the shore line value varies but was adjusted for in the topographic figures.

Based on the evidence we find the correct assessment should be \$108,860 (land, \$48,850 and building \$60,010). This assessment is ordered because the board recognizes the fallacy of giving equal weight to water and road frontage. The adjusted figured frontage by the "triangulation" method is 128 feet.

If the taxes have been paid, the amount paid on the value in excess of \$108,850 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Donald and Nancy L. Damm, taxpayers; and Chairman, Selectmen of Washington.

Melanie J. Ekstrom, Deputy Clerk

Date: March 6, 1992

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