

Volpe, Argue, Conrad & Gorlin

v.

Town of Pittsfield

Docket Nos.: 7498-89 and 10525-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of (land only):

Map R14 Lot 19	\$19,200	
Map R14 Lot 20		\$26,200
Map R14 Lot 23	\$23,200	
Map R14 Lot 24	\$28,100	
Map R14 Lot 25	\$26,800	
Map R14 Lot 26	\$24,300	
Map R14 Lot 27	\$22,800	
Map R14 Lot 28	\$25,500	
Map R14 Lot 29	\$30,200	
Map R14 Lot 45		\$23,900
Map R14 Lot 56	\$25,500	

and 1990 assessments of (land only):

Map R14 Lot 19	\$19,200
Map R14 Lot 23	\$23,200
Map R14 Lot 24	\$28,100
Map R14 Lot 25	\$26,800
Map R14 Lot 26	\$24,300
Map R14 Lot 27	\$22,800
Map R14 Lot 28	\$25,500
Map R14 Lot 29	\$30,200

Map R14 Lot 30\$50,500
Map R14 Lot 56\$25,500

(the Property). For the reasons stated below, the appeal for abatement is granted.

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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 sales of the lots were not considered in the assessment;
- (2) the highest sale price the Taxpayers received for any lot was \$18,000;
- (3) lot 32 sold for \$21,000 in March of 1989; this was a resale by a third party;
- (4) the Town's comparables are in a different subdivision which is smaller and in a different part of Town;
- (5) the subdivision road is a gravel town maintained road; this is not as desirable as similar lots on a paved road;
- (6) lot 55A, which is used by the Town as a comparable, sold as a "trailer lot"; lots on which a mobile home could be placed were in short supply and thus were selling for more; and
- (7) the Taxpayers were prohibiting, by the purchase and sales agreement, the placement of mobile homes on the lots.

The Town argued the assessments were proper because:

- (1) the Town has already reduced the assessments to what it feels is appropriate;
- and

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(2) lot 55A, not part of the Taxpayer's subdivision but nearby, sold in Dec. 1988 for \$25,000.

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Board's Rulings

Based on the evidence, we find the correct assessments should be:

1989

Map R14 Lot 19	\$16,300	
Map R14 Lot 20		\$22,300
Map R14 Lot 23	\$19,700	
Map R14 Lot 24	\$23,900	
Map R14 Lot 25	\$22,800	
Map R14 Lot 26	\$20,700	
Map R14 Lot 27	\$19,400	
Map R14 Lot 28	\$21,700	
Map R14 Lot 29	\$25,700	
Map R14 Lot 45		\$20,300
Map R14 Lot 56	\$21,700	

1990

Map R14 Lot 19	\$16,300
Map R14 Lot 23	\$19,700
Map R14 Lot 24	\$23,900
Map R14 Lot 25	\$22,800
Map R14 Lot 26	\$20,700
Map R14 Lot 27	\$19,400
Map R14 Lot 28	\$21,700
Map R14 Lot 29	\$25,700
Map R14 Lot 30	\$42,900
Map R14 Lot 56	\$21,700

This assessment is ordered because:

1) a 15 percent adjustment is warranted, based on the evidence, for the quality of the lots and the subdivision, the mixed development of the lots that have sold and for the risks and carrying costs yet to be incurred by the Taxpayers in fully marketing the Property; and

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2) the lack of any sales in 1988 and the two sales of \$18,000 and \$21,000 subsequent to the reassessment are some evidence of market value.

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

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Frank C. Volpe, Representative for the Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: September 16, 1992

Melanie J. Ekstrom, Deputy Clerk

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