

Kathryn and William Tiley

v.

Town of Conway

Docket No.: 7526-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$115,400 (land, \$100,800; buildings, \$14,600) on a .41 acre lot with a camp (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) the Property is on Page Brook and the distance across the brook to shore opposite subject brook is about 50 feet;
- (2) the time required to get to the main lake by boat from the subject lot is 15 minutes;

- (3) the Breeden property (abutter) is assessed at \$150,000 per acre while the subject lot is at \$175,000 per acre;
- (4) no other properties on Page Brook are assessed at \$175,000 per acre; and
- (5) a more reasonable per acre assessment is \$150,000.

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The Town argued the assessment was proper because the subject Property falls at the break point selected by the Assessor to represent a point of differing unit values per acre.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$101,000 (land \$86,400 and building \$14,600). This assessment is ordered because the board finds the per acre value of the subject Property to be \$150,000.

If the taxes have been paid, the amount paid on the value in excess of \$101,000 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 Kathryn & William Tiley, Taxpayers; and Chairman, Selectmen of Conway.

Dated: September 16, 1992

Melanie J. Ekstrom, Deputy Clerk

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