

**Robert A. and Kay J. Venning**

**v.**

**Town of Rindge**

**Docket No.: 7534-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$166,050 (land, \$133,050; buildings, \$33,000) on a 1.70 acre lot with a seasonal dwelling (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 was purchased in late fall of 1986 for \$97,500, is uninsulated and the only heat is from a fireplace;
- (2) the assessment is a 70 percent increase in value from the date of purchase;
- (3) there is a well on the Property which is shared with 7 other camps on the lake;

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(4) there is a private right-of-way that bisects the Property shared between the 7 other camps on the lake;

(5) the rear property is pastureland with deed restrictions - John Weidner has access for use as grazing, farming, and the right to pass through until 1999;

(6) the water frontage is unusable except for 30 feet , the remainder is rocks, trees, shrubs; and

(7) the fair market value as of April 1, 1989 is \$130,000.

The Town argued the assessment was proper because:

(1) the assessments on the lake were arrived at through a sales analysis of two lakefront sales and one sale with deeded beach rights;

(2) a ten percent adjustment was made to the land for the private right-of-way which bisects the Property and the deed restrictions; and

(3) the Eaton (abutter) assessment card confirms the consistency in the assessment.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$152,800 (land \$119,800 and building \$33,000). This assessment is ordered because:

(1) a 10 percent depreciation for the private right-of-way bisecting the land is warranted;

(2) a 10 percent depreciation for the deed restriction on the backland

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is warranted; and

(3) the water and sewer assessment has been changed to \$5,000 consistent with the Moreth property.

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If the taxes have been paid, the amount paid on the value in excess of \$152,800 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

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert A. and Kay J. Venning, Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Rindge.

Dated: NOVEMBER 19, 1992

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Valerie B. Lanigan, Clerk

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