

George D. and Doris C. Myers

v.

Town of Wakefield

Docket No. 7539-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments on Map 68, Lot 55 - \$89,400 (land only), and on Map 68, Lot 56 - \$128,800 (land, \$89,600; buildings, \$39,200), consisting of .71 and .8 acres in size, respectively (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 assessment is more than it could have been sold for in 1989;
- (2) Hayes appraisal said value was between \$45,000 - \$50,000; and
- (3) the asking prices of comparable land is less than the assessment.

The Town argued the assessment was proper because:

- (1) the subject lots had desirable waterfront;

- (2) the subject lots were assessed using same methodology as other Belleau Lake properties; and
- (3) the Town's representative inspected the subject lots and comparables on the weekend prior to the hearing and took photos (submitted).

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

Map 68, Lot 55 (land only)	-	\$78,000
Map 68, Lot 56 (land)	-	\$81,450
Map 68, Lot 56 (buildings)	-	\$39,200

for a total of \$198,650. This assessment is ordered because the Board adjusts the undeveloped lot (55) and the developed lot (56) 2.5 and 2.4 respectively.

The new land values are lot 55: \$78,000 and lot 56: \$81,450.

If the taxes have been paid, the amount paid on the value in excess of \$198,650 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

(s) George Twigg, III, Chairman

(s) Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George D. and Doris C. Myers, taxpayers; and Chairman, Selectmen of Wakefield.

Dated: May 27, 1992

(s) Valerie B. Lanigan, Clerk

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ORDER

The Taxpayers submitted a letter dated June 4, 1992 to the Board of Tax and Land Appeals in which they indicated that they could have settled their appeal prior to the hearing for a land figure offered by Avitar which was less than the land value in the Board's May 27, 1992 decision.

The Board understands that other considerations may affect the adjustments offered by a town or its representatives which could result in a different settlement figure than the Board's final decision after a full hearing. As a result of that hearing and others that day for properties located on Belleau Lake the Board made an adjustment for topography as it affected the Taxpayers' access to their waterfront.

In order to give the Taxpayers the opportunity to appeal our decision to the Supreme Court if that is their wish, we have treated the Taxpayers' letter as a motion for re-hearing and hereby deny said appeal. The Taxpayers have 30 days from the date on this denial of their motion to appeal to the Supreme Court pursuant to RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to George D. and Doris C. Myers, taxpayers; and Chairman, Selectmen of Wakefield.

Dated: June 26, 1992

Valerie B. Lanigan, Clerk

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RECERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to George D. and Doris C. Myers, taxpayers; and Chairman, Selectmen of Wakefield, due to being inadvertently mailed to the wrong taxpayer.

Dated: August 4, 1992

Valerie B. Lanigan, Clerk

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