

John D. Walsh

v.

Town of Rindge

Docket Nos.: 7603-89 and 9668-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of:

<u>Map & Lot #</u>	<u>Land Assessment</u>	<u>Building Assessment</u>	<u>Total Assessment</u>
40/6	\$100,850	\$125,800	\$226,650
6/17	233,900	219,450	453,350

and 1990 assessments of:

<u>Map & Lot #</u>	<u>Land Assessment</u>	<u>Building Assessment</u>	<u>Total Assessment</u>
40/6	\$ 102,350	\$293,750	\$396,100
6/17-1	143,250	101,600	244,850
6/17-2	92,450	111,700	204,150

Map 40 lot 6 consists of a dwelling and attached garage on Pool Pond. The house was unfinished as of April 1, 1989 but finished a year later. Map 6 lot 17 consists of an office/residential building and a two family house on approximately 5.1 acres. This parcel was subdivided as of April 1990 for financing purposes (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessments were

disproportionately high or unlawful, resulting in the Taxpayer paying an

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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 Taxpayer carried this burden and proved disproportionality.

Taxpayer's Arguments

The Taxpayer argued the assessments were excessive because:

Map 40 lot 6

- (1) the building area was calculated incorrectly by the Town ;
- (2) the town did not adequately adjust for the cathedral ceiling area of the dwelling;
- (3) the house is the most expensive in the area; most of the structures in the neighborhood are seasonal cottages;
- (4) two appraisals done for lending purposes estimated this parcel's market value (as if complete) at \$320,000 in December 1988 and \$290,000 in November 1990;

Map 6 lot 17

- (5) an appraisal as of October 1989 estimated the parcel's market value at \$350,000; and
- (6) the paving cost \$13,000 to install and yet is assessed at \$15,750.

Town's Arguments

The Town recommended revising the 1989 assessment by applying an additional 5% for the cathedral ceiling area.

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Map 40 lot 6

The Town argued the revised assessment was proper because:

(1) the building was estimated to be of a two story frame;

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(2) the additional depreciation properly accounts for the cathedral ceiling areas; and

(3) the house is of excellent quality.

Map 6 lot 17

The Town recommended at the hearing that the land value be reduced to \$190,800 to account for the parcel having less frontage than the tax map originally indicated and for reducing the paving value to \$11,800. The Town also recommended reducing the building value on the two family structure from \$111,700 to \$100,550 to account for the lesser utility and desirability of the second floor living unit. These recommendations would result in a revised assessment of \$392,950.

Board's Rulings

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

1989

<u>Map & Lot #</u>	<u>Land Assessment</u>	<u>Building Assessment</u>	<u>Total Assessment</u>
40/6	\$87,250	\$99,750	\$187,000
6/17	\$190,800	\$202,150	\$392,950

1990

<u>Map & Lot #</u>	<u>Land Assessment</u>	<u>Building Assessment</u>	<u>Total Assessment</u>
40/6	\$ 87,250	\$251,000	\$338,250
6/17	\$190,800	\$202,150	\$392,950

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This assessment is ordered because:

Map 40 lot 6

- (1) the adjustment made to the land by the Town in 1991 is reasonable and should be applied to 1989 and 1990;
- (2) the Town's additional five percent depreciation on the house is reasonable to further account for the cathedral ceiling areas and any errors in square footage;
- (3) a separate ten percent locational adjustment (economic depreciation) should be applied to the Town's revised building values for both years to recognize that the house is overbuilt for the neighborhood;

Map 6 lot 17

- (4) the Town's recommendations as to the land, paving and two family dwelling are reasonable;
- (5) the board notes that the Taxpayer's bank appraisal relied on comparable properties of which only one of the six cited were in the subject jurisdiction; the comparables were not described adequately in the appraisals to permit specific identification;
- (6) consequently, the bank appraisal was given less weight in supporting the Taxpayer's value estimate; and
- (7) the board did not receive enough evidence to enable them to allocate the map 6 lot 17 total value between the subdivided parcels in 1990; the Town

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should perform this function in keeping with the methodology used during the revaluation.

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If the taxes have been paid, the amount paid on the value in excess of the values listed above 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

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John D. Walsh, Taxpayer; Department of Revenue Administration; and Chairman, Selectmen of Rindge.

Dated: NOVEMBER 19, 1992

Valerie B. Lanigan, Clerk

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