

Spofford Yacht Club, Inc.

v.

Town of Chesterfield

Docket No.: 7619-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$350,900 (land only) 05HA01 (3.6 acres) and \$502,200 (land, \$437,200; buildings, \$65,000) 05HA07 (1.3 acres). 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 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.

The Taxpayer argued the assessments were excessive because:

- (1) a large portion of land area is in wetlands;
- (2) the building is on piers; and
- (3) the total value of both lots with improvements should be \$500,000.

The Town submitted two approaches to value. The first treated the two lots as combined for use and utility. The second appraisal prices each lot separately.

Based on the evidence, we find the correct assessment should be \$602,534 (land \$537,534 and building \$65,000). This assessment is ordered because the board finds a single value for both lots, and the fact that the building is on both lots makes it impossible to sell the lots separately without altering, moving or tearing down the building or making some other arrangement. Other factors include one driveway, as well as wetlands and certain zoning issues.

If the taxes have been paid, the amount paid on the value in excess of \$602,534 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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Peter J. Abell, Representative for the Taxpayer; Chairman, Selectmen of Chesterfield; and Scott Bartlett, MMC.

Dated: August 10, 1992

Valerie B. Lanigan, Clerk

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