

Alphonse A. Ruggeri and Marcia Maniatty

v.

Town of Chesterfield

Docket No.: 7629-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$150,600 on a summer camp with beach rights (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 does not have a septic system, having only two holding tanks;
and
- (2) the lot is extremely steep, making much of it useless.

The Town reviewed the assessment and adjusted it to \$107,600 (land \$85,900 and building \$21,700) by correcting the lot size.

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The Town argued the adjusted assessment was proper because:

- (1) it was supported by sales; and
- (2) it was consistent with other assessments.

Based on the evidence, we find the correct assessment should be \$99,010 (land \$77,310 and building \$21,700). This assessment is ordered because the Town erred in not providing sufficient adjustment for topography. Therefore, we have adjusted the land by 10%. This adjustment includes the topographical problems including the lack of land for installing a septic system.

If the taxes have been paid, the amount paid on the value in excess of \$99,010 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 Alphonse A. Ruggeri and Marcia A. Maniatty, taxpayers; Chairman, Selectmen of Chesterfield; and Scott Bartlett, MMC.

Dated: June 17, 1992

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Valerie B. Lanigan, Clerk

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