

William R. and Joyce D. Colby

v.

Town of Goshen

Docket No.: 7633-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$186,100 (land, \$93,350; buildings, \$92,750) on Map 209, Lots 4, 5, and 6, a 2-acre lot with a ranch-style house on Rand Pond Road (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 has no water frontage;
- (2) a 4.2-acre lot with similar topography sold for \$73,500 in 1990, and had a lower assessment than the Property;
- (3) the Property was purchased in 1986 for \$80,000; and

(4) the Property is currently listed for \$85,000.

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The Town argued the assessment was proper because:

- (1) the 2 lots were combined into one lot because the Property cannot be subdivided;
- (2) the topography was given additional depreciation, and the assessment was further reduced by 20% because the Property cannot be subdivided; and
- (3) the Property has lake access.

**Board's Rulings**

Based on the evidence, we find the correct assessment should be \$164,500 (land \$71,750; building \$92,750). This assessment is ordered because:

- (1) the board agrees with the selectman, Mr. Hopkins, that this Property would have been valued in 1989 between \$120,000 and \$130,000 without water rights; and
- (2) the board concludes the water rights are not worth \$56,000 to \$66,000, therefore, we gave an additional -20% on the land calculation.

If the taxes have been paid, the amount paid on the value in excess of \$164,500 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Gary J. Karp, Representative for the Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 15, 1993

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Valerie B. Lanigan, Clerk

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