

Clara P., Mark A., and Wayne F. Holden

v.

Town of Goshen

Docket No.: 7644-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$139,000 (land \$101,650; buildings \$37,350) on a ranch-style home on Rand Pond Road (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board.

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 in their written appeal the assessment was excessive because:

(1) there has been a 46% increase in taxes from 1988;

(2) the Property is a summer cottage only;  
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- (3) the Property has no well and they use lake water only; and  
(4) the house has no insulation.

The Town argued the assessment was proper because adjustments were made for: rolling, rocky topography; partial basement and basement ceiling height; crawl space; lake water; and small bathroom.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$128,900 (land \$91,550; building \$37,350).

The Town submitted an analysis of the seven Rand Pond sales from which the base land values were derived (Exhibit TN-A). The three sales of undeveloped lots required substantial adjustments for size, condition or buildability, and were not heavily relied upon by the Town. The four sales of developed properties were of cottages or dwellings with operating septic systems and varying water supplies. From those four sales, residual land prices of \$1000 for waterfront and \$500 for rear lots were derived, using the New Hampshire Department of Revenue Administration's (DRA) land tables. The DRA land tables allow a minimum of 5 percent to a maximum of 10 percent for the difference between a developed lot and an undeveloped lot. Additionally, for developed lots, \$4,500 was added for a septic system or \$1,000 for a holding tank.

The consistent evidence submitted in the 30 Rand Pond appeals was that septic systems were difficult and expensive to construct due to the small size of many of the lots and limiting soil conditions. Those with modern systems are of the expensive "pump up" design. Many developed lots have only holding

tanks because the lots cannot support septic systems. Some of the small  
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undeveloped lots have such severe ledge or drainage conditions or abut  
existing water supplies that installing a septic system would be impossible or  
economically infeasible.

Based on these facts, the board finds the DRA undeveloped factors and  
the septic and holding tank values do not adequately account for the  
difference in market value between properties with septic systems and those  
that are undeveloped or have only a holding tank. These value differences  
should reflect not only the "cost to cure" but also any uncertainty the market  
would perceive in valuing such properties when compared with properties with  
septic systems.

Therefore, the board finds the undeveloped factor for this Property  
should be reduced an additional ten percent for the Taxpayers' Property to be  
proportionally assessed.

No further adjustment is warranted as the Town's assessment recognized  
the seasonal nature of the building.

If the taxes have been paid, the amount paid on the value in excess of  
\$128,900 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 Clara P. Holden, Mark A. Holden and Wayne F. Holden, 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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