

**Paul and Martha Heusser**

**v.**

**Town of Goshen**

**Docket No.: 7646-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$33,600 (land, \$32,300; buildings, \$1,300) on Map 209, Lot 27 (Lot 27), a .23-acre lot with an 18-foot camper with a tool shed; and \$27,200 (land only) on a .22-acre lot, Map 209, Lot 28 (Lot 28) on Rand Pond Road. The Taxpayers also own, but did not appeal, a lot identified as Lot 21.4 which abuts on the rear of the two Lots under appeal. For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessments were 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 assessments were excessive because:

(1) Lot 27 was purchased in 1986 for \$6,000 and Lot 28 was purchased in 1984 for \$7,500;

(2) both Lots have been on the market for two years for \$31,000; and

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(3) the Property has a holding tank and outhouse.

The Town argued the assessments were proper because:

- (1) Lot 28 has a travel trailer, shed, and holding tank; and
- (2) discounts were given for topography, contiguous ownership of the lots and the general undeveloped condition of the lots;

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

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

Lot 27: \$26,600 (land \$25,300 and building \$1,300); and Lot 28: \$20,850 (land only).

Based on the evidence, these assessments are ordered because these assessments were calculated by using an additional -10% on the topography adjustment and the undeveloped adjustment. The board also concluded these two lots are more valuable because they are contiguous.

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 \$1,000 for waterfront and \$500.00 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% to a maximum of 10% 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 Paul and Martha Heusser v. Goshen  
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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 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 undeveloped factors were adjusted an additional -10%.

If taxes have been paid, the amount paid on the value in excess of \$26,600 for Lot 27 and \$20,850 for Lot 28 shall be refunded with interest at 6% per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Paul and Martha Heusser, Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 27, 1993

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Valerie B. Lanigan, Clerk