

Evelyn T. O'Connor

v.

Town of Goshen

Docket No.: 7653-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$135,700 (land, \$97,250; buildings, \$38,450) on a .21-acre lot with a 1-1/2 story cape-style home on Rand Pond Road (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was 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 assessment was excessive because:

- (1) the assessment card has numerous errors, i.e., the frontage is 75 feet per the deed, not 86 feet; the topography is low and wet, not high and rolling; there is no porch; and there is no cellar;
- (2) there is no beach due to erosion and high water;
- (3) the Property has rotten vegetation (muck), making it difficult to walk;

(4) a neighboring lot with more frontage has a lower assessment; and

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(5) a March, 1988 appraisal gave an estimated \$125,000 value.

The Town argued the assessment was proper because:

- (1) a review was done on the Property and an adjustment was made to the topography;
- (2) the cellar on the assessment card is actually a crawl space;
- (3) the tax map shows 75-foot frontage, however, adjustments must be made to the frontage to compensate for the irregular shape;
- (4) the land values are based on frontage, not acreage;
- (5) the assessment is consistent with other properties in the Town; and
- (6) the neighboring lots (lots 25 and 36) have more frontage but lower assessments because they were given a contiguous-lot adjustment.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$131,050

(land \$97,250; building \$33,800). This assessment is ordered because:

- (1) the Selectmen, Mr. Hopkins, stated the property has serious problems with its crawl space and floor joists, which require adjusting the assessment;
- (2) the board has given the house an additional 10% for physical depreciation based on Mr. Hopkin's testimony; and
- (3) the Taxpayer's arguments concerning the land value were not supported by any market data and the Town's sales analysis of waterfront properties supported the land assessment and the adjustments given by the Town during the review.

If the taxes have been paid, the amount paid on the value in excess of

\$131,050 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Evelyn T. O'Connor, Taxpayer; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 15, 1993

Valerie B. Lanigan, Clerk