

Ray J. Solomonoff

v.

Town of New Ipswich

Docket No.: 7675-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$41,100 (land, \$37,100; buildings, \$4,000) on his real estate on Chapman Road, Old Rindge Road and Rte. 123-124, consisting of 125 acres of land, of which 116 are in current use, and a cabin (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 value of the 8 acres under the powerlines at \$950 per acre is excessive due to restrictions of use placed on it by the Public Service of New Hampshire easement.

The Town argued the assessment was proper because the assessment of the land not in current use was not assumed to be under the powerline right-of-way but rather was assumed to be general rearland adjusted only 40 percent for general topography considerations.

Based on the evidence, we find the correct assessment should be \$33,950 (land \$29,950 and building \$4,000). This assessment is ordered because the original map submitted to the Town by the Taxpayer with his application for current use clearly shows that 8 acres excluded from current use (in addition to the one acre around the cabin) are in the area of the powerline right-of-way.

Therefore, based on the testimony of the Town that, if this were so, the land would have a value of around \$200 per acre, the Board rules the condition factor for the 8 acres should be 10. This results in the following summary of valuation:

<u>Land Not in Current Use</u>	
1 acre with cabin	\$19,200
8 acres powerline right-of-way	1,450
<u>Current Use Land</u>	
116 acres	9,300
<u>Cabin</u>	<u>4,000</u>
Total	\$33,950

If the taxes have been paid, the amount paid on the value in excess of \$33,950 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Ray J. Solomonoff, Taxpayer; Scott Bartlett, MMC; and Chairman, Selectmen of New Ipswich.

Dated: May 5, 1992

Valerie B. Lanigan, Clerk

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