

Leon and Mabel Pelkey

v.

Town of Goshen

Docket No.: 7677-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$122,350 (land, \$108,700; buildings, \$13,650) consisting of a camp 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 lake frontage is steep and ledgy;
- (2) the Property cannot have a septic system; and
- (3) the topography should have an additional 15% depreciation;

The Town argued the assessment was proper because:

- (1) the Property's front-foot value is within range of comparable sales;

(2) the Town recommended an additional -5% topography adjustment; and

Pelkey v. Town of Goshen  
Docket No.: 7677-89

Page 2

(3) the view was considered in the assessment.

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

Based on the evidence, we find the correct assessment should be \$105,700

(land \$92,050; building \$13,650). This assessment is ordered because:

(1) the Town's review and recommendation at the hearing of an additional -5% topography adjustment is reasonable; and

(2) the undeveloped factor for this Property should be reduced an additional -10%.

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 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

Pelkey v. Town of Goshen  
Docket No.: 7677-89

Page 3

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.

If the taxes have been paid, the amount paid on the value in excess of \$105,700 shall be refunded with interest at 6% per annum from date paid to refund date. RSA 76:17-a.

Motions for reconsideration of this decision must be filed within 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

Pelkey v. Town of Goshen  
Docket No.: 7677-89  
Page 4

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 27, 1993

---

Valerie B. Lanigan, Clerk