

William R. and Priscilla V. Jenness

v.

Town of Wakefield

Docket No.: 7753-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of:
Lot 93 - \$177,900 (land, \$128,100; buildings, \$49,800);
Lot 112 - \$ 36,000 (land only);
Lot 111 - \$ 35,500 (land only); and
Lot 73 - \$ 35,700 (land only).

For the reasons stated below, the appeal for abatement is granted on all lots but Lot 93. 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 on all lots except Lot 93.

The Taxpayers argued the assessments were excessive on the back lots because:

- (1) there is no water access or right-of-way to water;
- (2) the lots are on a private (non-Town maintained) road;

(3) the Town did not make adjustments compared to lots on paved Town- maintained roads;

(4) the Taxpayers did not think the lots were buildable due to septic requirements;
and

(5) the lots were worth only \$10,000 to \$15,000.

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The Taxpayers argued Lot 93 was overassessed because:

- (1) the Mullaly sale was for less than the assessment, and thus they assumed all lakefront property was overassessed;
- (2) the lot has topographical problems; and
- (3) the Taxpayers admitted they could probably have sold Lot 93 for the assessment.

The Town made no presentation on Lot 93. The Town argued the assessments on Lots 111, 112 and 75 were proper because they were based on sales and the lots being close to the boat launch.

Board's Rulings

Based on the evidence, we find the correct assessments should be \$25,000 (land only) on Lots 111, 112 and 75. These assessments are ordered because they are consistent with the median sale prices on similar lots and adequately reflect the Taxpayers' concerns. We find the Taxpayers failed to prove the assessment was disproportional on Lot 93.

If the taxes have been paid, the amount paid on the value in excess of \$75,000 ($3 \times \$25,000 = \$75,000$) on Lots 111, 112 and 75 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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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 William R. and Priscilla V. Jenness, Taxpayers; and Chairman, Selectmen of Wakefield.

Dated: October 19, 1992

Valerie B. Lanigan, Clerk

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