

**William D. Dallas and Heather M. MacDonald**

**v.**

**Town of Merrimack**

**Docket No.: 7801-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$88,000 (land only) on Map 3B, Lot 264, a 3.60 acre lot (the Property). The Taxpayers own, but did not appeal, Map 3B, Lot 139. For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) there are topographical problems with the lot - a large ridge running down the left side of the Property, boulder outcroppings and wetlands in the back area;
- (2) a minimum of 100,000 square feet is required to build a house on the lot;
- (3) there is an inequity in the assessment of the lot in relationship to other lots in the area;

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(4) abatements were given to other properties along Dahl Road because of topographical problems;

(5) the lot was purchased in January, 1989 for \$85,000 which was an overpayment for the land; and

(6) a fair assessment should be between \$60,000 and \$65,000.

The Town argued the assessment was proper because:

(1) the Taxpayers purchased the Property in 1989 for \$85,000;

(2) there is 322 feet of frontage along the road and assessments are based on the size of lots and frontage;

(3) the subject Property is one of the larger lots on Dahl Road;

(4) the abatements referred to by the Taxpayers were granted for the 1990 tax year as a result of building permit problems experienced by the owners; and

(5) a consistent application was applied throughout the Town and the assessment is fair.

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

The Taxpayers compared their Property to land on Breck Drive and on Dahl Road. The evidence showed that the subject was one of the largest parcels with 322 feet of road frontage. The Town indicated that abatements were granted to lots on either side of the subject for topographic reasons. Further, the Taxpayers' purchase of the Property in January of 1989 for \$85,000 is within 3.5 percent of the assessed value.

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The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William D. and Heather M. MacDonald, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 8, 1993

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Valerie B. Lanigan, Clerk

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