Matthew and Audrey Yakovakis

v.

Town of Colebrook

Docket No.: 10225-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $112,278 (land, $20,578; buildings, $91,700) on 13.460-acres (the Property). The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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).

The Taxpayers argued the assessment was excessive because:
(1) the actual replacement cost of the house is less than its assessed value; (2) the Property has no road frontage (parcel begins 1000-feet off the Town road and the dwelling is accessed by an additional 1200-foot driveway) and the cost to bring the road up to Town specifications far exceeds the value of the

parcel;

(3) the Property has been assessed for a view;

(4) the house sites of two comparables, both with views and road frontage, are assessed at $11,800 and $11,000, $8,000 less than the Taxpayers' site;

(5) the Taxpayers' log house is assessed at approximately $23,000 more than the two comparables' log houses;

(6) the Town's representative indicated at the review that the building was assessed too high and indicated a fairer assessment would be $83,000; and

(7) a proper total assessment would be $90,000.

The Town argued the assessment was proper because:

(1) the Property has an excellent view;

(2) the construction, being very good quality, was initially graded A+10; however after the preliminary review, the grade was lowered to A0 average quality and the neighborhood factor reduced from a F to a B reducing the assessment by $20,300;

(3) Taxpayers' comparable #1 (Davis) has less square feet of living area and a lower neighborhood code and condition factor;

(4) comparable #2 (Weber) has moderately sloping topography with a lower neighborhood code and condition factor; and

(5) all qualified, arms-length sales which occurred in Colebrook between April 1, 1988 and April 1, 1990 were analyzed to create the valuation standards and uniformly applied on all properties in the Town of Colebrook.

The board's inspector inspected the Property, reviewed the assessment-

record card, and filed a report with the board. This report concluded the proper assessment should be $104,100; (land $17,650; building $86,450).

Board Findings

Based on the evidence, the board agrees with the inspector's report which recognized additional adjustments for access to the site, the grade and the contributory factor of the interior finish and chimney\fireplace.

If the taxes have been paid, the amount paid on the value in excess of $104,100 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Matthew and Audrey Yakovakis, Taxpayers; and Chairman, Selectmen of Colebrook.

Dated: April 5, 1993

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Melanie J. Ekstrom, Deputy Clerk