

**Richard and Sandra Duane**

**v.**

**Town of Pittsfield**

**Docket Nos.: 10234-90 and 11174-91 PT**

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessment of \$329,931 (land \$142,831; buildings \$187,100) on a 16.64-acre lot with a house (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 proved disproportionality and met the burden of proof.

The Taxpayers argued the assessment was excessive because the view factor was excessive on the 1-acre house site when compared to other properties with views. (Packet of photographs of the views was submitted.) No other property has a 5.00 condition factor for a view. The Taxpayer also stated the view is not a great 360-degree view.

The Town argued the assessment was proper because:

(1) it was consistent with several comparables, which were submitted;

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(2) the view factor was established by the revaluation firm being shown certain views and told the perceived the value of each;

(3) the 5.00 factor is due to the 360-degree view when other views were not 360 degrees; and

(4) the Property is on a paved road with good access.

Based on the evidence, we find the correct assessment should be \$249,030, which includes \$23,469 in current use credit. This assessment is ordered because:

(1) the best evidence was the Taxpayers' October 1990 \$250,000 purchase price (time adjusted back to April 1990 by plus 9% to \$272,500); and

(2) the Taxpayers certainly demonstrated serious questions about the 5.00 condition value on the land due to the view.

If the taxes have been paid, the amount paid on the value in excess of \$249,030 for tax years 1990, 1991 and 1992 shall be refunded with interest at six percent per annum from date paid to refund date. The 1992 refund is made in accordance with RSA 76:17-c (1993). In accordance with RSA 76:17-c (1993), the Town shall, until the Town is revalued, use the ordered assessment for subsequent years with good faith adjustments under RSA 75:9.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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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 Richard and Sandra Duane, Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: August 24, 1993

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Valerie B. Lanigan, Clerk