

Chester A. and Eleanor J. Buck, et al

v.

Town of Deerfield

Docket No.: 10732-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$32,100 (land \$26,500; building \$5,600) on a 6,030 square-foot lot with a garage (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). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

1) current state regulations will now allow a septic system on the site, and the lot is unbuildable, i.e., a building permit cannot be issued because of the lot's size and proximity to water;

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- 2) there were errors on the assessment-record card, i.e, there is no septic system or well on the Property;
- 3) one of the Town's comparables was a 13,203 square-foot lot with a \$28,300 land assessment, yet the Property, with approximately half the square footage, has a \$26,500 land assessment; and
- 4) since the last revaluation, the assessment increased over 100%, yet values have steadily declined since 1987.

The Town argued the assessment was proper because:

- 1) the Property is a lakefront lot, which increased its value;
 - 2) the Property's assessment was well within range of comparable vacant lots;
- and
- 3) smaller lots have higher, per-unit values for land size.

Board's Rulings

While the Taxpayers only appealed Lot 00B2 to the board, the Taxpayers also own adjacent lots identified as Lot 00B1 and Lot 00B. This board is obligated, when a taxpayer appeals one of their parcels, to consider the other properties owned by the taxpayer but not appealed within the same taxing jurisdiction. Appeal of Town of Sunapee, 126, N.H., 214 (1985). Lot 00B1 is improved with a cottage and holding tank and is assessed \$95,600, and Lot 00B is a vacant parcel of 1,934 square feet and is assessed for \$3,800. The Taxpayers presented evidence that both the appealed Lot, 00B2, and Lot 00B

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could not be developed with a septic system according to current state regulations. The appealed Lot 00B2 is improved with a garage that is an accessory building to the cottage on the adjoining Lot 00B1. Thus, it is clear from a review of all the evidence that these three separately assessed and described lots, due to their integrated use or dependency, should be viewed as one estate. See RSA 75:9. Therefore, the board finds that the value of Lot 00B2 should be reduced to \$16,200 (land \$10,600; building \$5,600) to recognize its limited contributory value to the total estate as supplemental land supporting an accessory building. This value is calculated by reducing the land condition factor from 0.25 to 0.10. The total value of the three separately assessed lots is similar to what the value would be if all three were assessed as one lot.

If the taxes have been paid, the amount paid on the value in excess of \$16,200 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.

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BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Chester A. and Eleanor J. Buck, et al, Taxpayers; and Chairman, Selectmen of Deerfield.

Dated: July 14, 1993

Melanie J. Ekstrom, Deputy Clerk

0008/0005