

Jack L. Thacher and Elizabeth S. Thacher

v.

Town of Deerfield

Docket Nos.: 10785-90 and 11428-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessments of:

Map 03A Lot 055-K \$48,900 (land only);

Map 03A Lot 057 \$212,300 (land, \$144,800, buildings, \$67,500); and

Map 03A Lot 056 \$295,000 (land, \$126,500, buildings, \$168,500).

Lot 55-K consists of a vacant parcel approximately 1.5 acres in size. Lot 57 consists of a dwelling on 4.3 acres with frontage on Pleasant Lake and Route 107. Lot 56 consists of 2.5 acres with frontage on Pleasant Lake and Route 107 and improved with a dwelling and garage. 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 assessments were excessive because:

Lot 55-K

- (1) the parcel sold in October of 1991 for \$21,900 after being on the market for two years;
- (2) the lot does not have access to the lake nor does it have a view of the lake;
- (3) ledge prevails throughout the lot;
- (4) the lot is on a sharp curve in the road; and
- (5) the purchasers of the lot were required to get a permit from the Town to build on the lot as it was a nonconforming lot.

Lot 56

- (1) the parcel has only 50 feet of waterfront on Pleasant Lake; and
- (2) as assessment analysis, performed by Larry Emerton, Appraisers, indicated a proper assessment of \$252,200.

Lot 57

- (1) the building has no heat or insulation and only room dividers for petitions; and
- (2) an assessment analysis, performed by Larry Emerton, Appraisers, indicated a proper assessment of \$201,000.

The Town argued the assessments were proper because:

Lot 55-K

- (1) the Town was unaware the Property was listed at the time of the reassessment and it relied upon its comparable sales of properties in the area for assessing Lot 55-K; and

(2) all properties on the westerly side of Route 107 had an enhanced value due to their proximity to the lake.

Lot 56

(1) the lot value was reduced 10 percent to account for the shape of the lot and its 50 foot frontage on the lake;

(2) comparisons of similar age of quality and construction of homes on waterfront lots support the assessment; and

(3) in particular, the Taxpayers' purchase of the adjoining parcel, lot 57 in 1988 for \$198,000, supports the assessment.

Lot 57

(1) the Town recommended adjusting the assessment to \$203,100 and argued that assessment was proper because the property had been purchased by the Taxpayer in 1988 for \$198,000 and a foundation had been subsequently added.

Board Rulings

Based on the evidence, we find the correct assessments should be: Lot 55-K \$33,100; Lot 56 \$295,000; and Lot 57 \$203,100. These assessments are ordered because:

Lot 55-K

(1) the majority of the comparable sales relied upon by the Town had greater waterfront influence (either access to or view of the lake) than the Taxpayers' lot;

(2) the Taxpayers' evidence of marketing and subsequent sale of the Lot is some evidence of the Property's market value;

(3) while there was some dispute between the parties as to the lot's actual size, the Taxpayer did not submit any conclusive proof that the estimate by the Town of 1.5 acres is unreasonable; and

(4) the influence factor should be reduced from 1.5 to 1 to account for the lot's lack of lake influence.

Lot 56

The board finds that the Taxpayer did not submit any credible evidence of the Property's market value. The board finds the assessment analysis done by Larry Emerton, Appraisers was not an appraisal but rather just a comparison and averaging of the assessments of waterfront property. The analysis placed equal weight per front foot regardless of the amount of frontage of the comparable assessed properties. Such a straight line relationship was not shown to have a basis in the market. The market generally indicates a higher per front foot price for lots with smaller frontage than for lots with larger frontage, and since the yardstick for determining equitable assessments is market value (See RSA 75:1), it is necessary for assessments on a front foot basis to differ to reflect this market phenomenon.

Lot 57

The parties at the hearing agreed to the Town's recommended assessment of \$203,100, and the board finds this assessment to be reasonable.

If taxes have been paid, the amount paid on the value in excess of those stated above shall be refunded with interest at six percent per annum from

date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c and board

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rule Tax 203.05, the Town shall also refund any overpayment for 1992, and until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Jack L. and Elizabeth S. Thacher; Taxpayers and the Chairman, Selectmen of Deerfield.

Dated: October 20, 1993
0008 & 0009

Valerie B. Lanigan, Clerk