

Iver Johnson

v.

Town of Deerfield

Docket No. 10787-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the following 1990 assessments.

<u>MAP/LOT</u>	<u>ASSESSMENT</u>
Lot 3A/55-G	\$219,800
Lot 4/85	\$ 3,400
Lot 3/44	\$ 72,400

The Taxpayer 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 denied on Lots 3A/55-G and 4/85. However, the board grants an abatement on Lot 3/44.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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).

Lot 3A/55-G

The Taxpayer argued the assessment was excessive because:

- 1) the lot is actually closer to 1.2-acres;
- 2) the sales of comparable properties show the land value should be \$100,000 and the house value should be \$150,000;
- 3) the house should receive additional functional and physical depreciation;
and
- 4) the lot's topography was not considered.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report recommended no change. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

Lot 4/85

The Taxpayer argued the assessment was excessive because:

- 1) a 5-acre lot (lot 1/33) was assessed for only \$3,600;
- 2) the lot cannot be found and is wooded; and
- 3) the back land sales figure should be assessed at \$1,500.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). This report recommended no change.

Lot 3/44

The Taxpayer argued the assessment was excessive because:

1) recent sales show a value of \$750.00 per acre when consideration is given to

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topography and ledge;

2) a variance would be needed to develop the lot because the lot does not have

50-feet of road frontage;

3) the lot is restricted to one house lot; and

4) the lot has some wet areas, ledge and it is very hilly.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). The board inspector was unable to make any recommendations for lack of information.

The Town only submitted a brief on Lot 3/44. The Town argued the assessment on Lot 3/44 was proper because:

1) it was arrived at in a manner consistent with other assessments in the area and after giving consideration to land sales; and

2) adequate adjustments were made to address the Taxpayer's concerns.

BOARD RULINGS

The board denies the appeals as to Lots 3A/55-G and Lot 4/85, finding the Taxpayer failed to produce sufficient evidence. Most importantly, The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. The Taxpayer mentioned certain comparable sales,

but he did not present any information concerning those sales, and thus the board was unable to analyze those sales.

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The board grants an abatement on Lot 3/44, finding the proper assessment should be \$70,190. The board arrived at this assessment by reducing the primary lot site by an additional -5% to reflect the requirement to obtain a variance to develop the lot. Assessments must consider all factors, and we find the Town failed to consider this factor.

If the taxes have been paid, the amount paid on the value in excess of \$293,390 (the total of all three assessments) 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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Iver Johnson, Taxpayer; and the Chairman, Selectmen

of Deerfield.

Date: June 16, 1993
009/004

Melanie J. Ekstrom, Deputy Clerk