

**Brian Shea and Norrie & Hurst**

**v.**

**Town of Enfield**

**Docket No.: 8142-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$106,400 (land \$87,900; buildings \$18,500) on Lot 43-16, a .32-acre lot with a seasonal cabin on Crystal Lake (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 it exceeded the Property's fair market value -- the Property having been marketed for \$95,750 and an appraisal on an adjacent property estimated the adjacent property's value at \$72,150.

The Town argued the assessment was proper because:

- 1) it was arrived at consistently with other properties in the Town (the Town submitted a spread sheet of comparable assessments to support its position);  
and
- 2) the abutter's appraisal was not adjusted to reflect the differences in the two properties and the difference between the property and the comparables.

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 \$88,800 (land \$70,300; buildings \$18,500). The inspector made adjustments to the Town's assessment for the lack of well and septic and for topography. The inspector concluded the lake frontage is rocky, weedy and shallow for quite some distance.

#### Board's Rulings

Based on the evidence, we find the correct assessment should be \$88,800 (land \$70,300; buildings \$18,500). The best evidence was the board inspector's report. The inspector visited this property and all other appealed properties in Enfield.

Submitting an appraisal on an adjacent property does not establish the Property's value. As the Town pointed out, no adjustments were made to reflect the Property's differences from the adjacent property. Additionally, the appraisal itself did not adjust the comparables consistent with the differences between the appraised property and the comparables.

If the taxes have been paid, the amount paid on the value in excess of \$88,800 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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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Brian Shea, Norrie & Hurst, Taxpayers; and Chairman, Selectman of Enfield.

Dated:

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Melanie J. Ekstrom, Deputy Clerk