

Highland Haven, Inc.

v.

Town of Washington

Docket No.: 8207-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 79-A:10, the "Town's" 1990 assessment of a \$1,399 land-use-change tax (LUCT) on a vacant, 1.6-acre lot. The area subject to the LUCT is a relocated road accessing (the Property). The Taxpayer failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayer was not defaulted. The Town was represented by assessors Kathleen Hunt, Linda T. Cook and Arline R. France. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was incorrectly or unlawfully calculated, resulting in the Taxpayer paying a land-use-change tax without any legal basis in fact.

The Taxpayer argued the LUCT should not have been assessed as the area in question involved the relocation of a portion of an existing road which had become discontinued. "I can see no reason for any tax due."

Highland Haven, Inc.

v.

Town of Washington

Docket No.: 8207-90

Page 2

The Town argued the assessment was proper because:

- (1) an application by the owner for further subdivision in 1989 resulted in the owner being required by the Town to relocate a portion of the access road onto the taxpayer's property already in current use (previously a corner of the access road was located on an abutting property);
- (2) the value was derived by the Town's assessors from the frontage value (\$60 per front foot) for Class V roads in the area, with adjustments for the amount of frontage, the depth of the parcel and the non-buildable aspect of the parcel;
- (3) the original road was not discontinued until after the new road was in place and subject to a LUCT;
- 4) the Board of Assessors calculated 1.6 acres (70' x 1000') of a 250-acre parcel, (tax map number 16.7) to have a value of \$13,990. The LUCT is 10% of the full value.

Board's Rulings

Based on the evidence, we find the correct assessment for the land-use-change tax should be \$1,399. This assessment is ordered because the board finds the relocated portion of the road occupies land formerly in current use which therefore no longer qualifies owing to its developed condition as part of an access road to a sub-division.

Highland Haven, Inc.

v.

Town of Washington

Docket No.: 8207-90

Page 3

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William McGowan for Highland Haven, Inc., Taxpayer; and the Chairman, Selectmen of Washington.

Dated: 8/17/93

0008

Valerie B. Lanigan, Clerk