

**Frederick Lorden
v.
Town of Brookline**

Docket No. 8348-90

DECISION

The Taxpayer and the Town of Brookline 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.

The Taxpayer appeals, pursuant to RSA 76:16-a the Town's 1990 assessment of \$122,300 (land, \$85,800; building, \$36,500) on his parcel located on Lake Potanipo and identified as parcel L-5. The Taxpayer owns but did not appeal two other parcels of 81 acres and 49.7 acres identified as parcels E-88 and K-101 respectively.

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). We find the Taxpayer failed to carry his burden and prove any disproportionality.

The Taxpayer stated that following the revaluation the selectmen corrected the lot size from 10,890 square feet to 5,000 square feet and reduced the land value from \$102,600 to \$44,000 after the appraisal firm, M.M.C., Inc. failed to make the correction. However, in 1990, the Taxpayer stated the land valuation was increased to \$85,800.

The Town stated:

The Town of Brookline was revalued in 1989. During this revaluation quite a few mistakes in data collecting were made including the subject parcel, L-5. When Mr. Lorden appealed to this Board corrections were made both in the area and the lake front factor resulting in an abatement. However, the square foot price

for the smaller lot size was inadvertently omitted resulting in an excessive and incorrect abatement. This error was picked up for 1990. This Board believes that the assessment of \$85,800 is the correct land assessment for this parcel.

The Board finds that the Town made an error in the calculation of the land value in abating the assessment in 1989. The Town submitted evidence of the land area and square foot price chart derived from sales in Brookline and used for all properties during the revaluation. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982). The correct application of this market analysis to the Taxpayer's land valuation supports the Town's 1990 valuation.

To continue the error made in the 1989 abatement would cause the taxpayer to be disproportionately underassessed especially in comparison to other lots of similar size such as the three submitted as comparables by the Town.

Therefore, the appeal for abatement is denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: May 15, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Frederick Lorden, taxpayer; and the Chairman, Selectmen of Brookline.

Michele E. LeBrun

Date: May 15, 1991

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