

George M. and Susan L. Wahlen

v.

Town of Brookline

Docket No.: 8349-90

DECISION

The Taxpayers appeal, pursuant to RSA 76:16-a, the Town's 1990 assessment of \$56,800 (land only) on their property consisting of an unimproved 1.84-acre lot on Captain Seaver Road (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 they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because an April 25, 1990, appraisal done for the Cooperative Bank of Concord, Massachusetts indicated an estimated site value of \$35,000; and other lots in the same area

sold in 1990 from \$30,000 to \$39,900.

The Town argued the assessment was proper because while the 1990 median ratio for all property in Brookline was determined to be 123%, unimproved land sales indicated a ratio for those type of properties of 152%.

Thus, the Taxpayers' Property was assessed similarly to other unimproved lots.

Based on the evidence, we find the correct assessment should be \$45,000 (land only). This assessment is ordered because:

- 1) the 1990 assessment ratio for all property in Brookline is 1.23 as determined by the Department of Revenue Administration;
- 2) to achieve proportional assessments, all properties should be assessed within a reasonable range of the median ratio, not just similar properties. See Appeal of Town of Sunapee, 126 N.H. 214 (1985); and
- 3) based on the sales data submitted by the Taxpayer, the board rules that an assessment of \$45,000 is within an acceptable range of the sales for comparable properties.

If the taxes have been paid, the amount paid on the value in excess of \$45,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Mr. and Mrs. George Wahlen, Taxpayers and Chairman, Selectmen of Brookline.

Dated: October 31, 1991

Melanie J. Ekstrom, Deputy Clerk