

Henry C. Humphreys

v.

Town of Francestown

Docket No.: 8399-90

DECISION

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

- 1) \$76,000 (land \$40,300; buildings \$35,700) on Map 15, Lot 10 Scobie Pond Road -- a .10-acre lot with a camp and barn;
- 2) \$66,100 (land \$40,300; buildings \$25,800) on Map 15, Lot 11 Scobie Pond Road -- a .10-acre lot with a camp and barn;
- 3) \$94,380 (land \$74,380; buildings \$20,000) on Map 3, Lot 101 Dodge Hill Road -- a 22-acre lot with a cabin; and
- 4) \$45,000 on Map 3, Lot 101-3 Dodge Hill Road -- a 5.14-acre vacant lot.

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 abatements is granted in accordance with the Town's recommendation.

The Taxpayer has the burden of showing the assessments were 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

The Taxpayer argued the assessments were excessive because:

- 1) the lots on Scobie Pond Road have a \$13.50 per-square-foot value, which is too high;
- 2) Lot 3/101-3 was on the market for 3 years for \$10,000 with no buyers; and
- 3) the proper assessment for Lot 3/101-3 should be \$20,000.

After reviewing the Taxpayer's information, the Town recommended revising the assessments on Lots 15/10, 15/11 and 3/101 by assessing these lots as one lot and by reducing the building assessment on Lot 3/101. The Town argued no adjustment was required on Lot 3/101-3.

The Town argued the assessment of Lot 3/101-3 was proper because:

- 1) it is a waterfront property, and a .96-acre, waterfront lot sold for \$100,000 in June, 1989;
- 2) it is buildable and is assessed as a 3-acre building lot with 2.14 excess acres;
- 3) a 10% topography depreciation was already given;
- 4) the lot is currently listed for sale for \$60,000; and
- 5) the same methodology was used throughout the Town.

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 concluded the assessments were proper. 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.

Board's Rulings

Based on the evidence, the board finds the combined assessment on Lots 15/10, 15/11 and 3/101 should be \$208,030 (land \$130,630; building \$77,400) calculated as follows.

land total 22 acres

3 acres	x	\$15,000	x	1.00	x	2.75	=	\$123,750
3 acres	x	\$ 2,500	x	.93	x	.80	=	\$ 5,600
300 FF	x	\$ 40	x	1.00	x	.70	=	\$ 8,400
16 acres	x	\$ 2,500	x	.93	x	.80	=	<u>\$ 29,800</u>
								\$167,550
less current use "credit"							-	<u>\$ 36,920</u>
								\$130,630

building totals

	Lot 15/10	\$ 35,700
	Lot 15/11	\$ 25,800
(add. -10% depreciation)	Lot 3/101	<u>\$ 15,900</u>
		\$ 77,400

The above calculations were made by the board based on the Town's recommendations. In the future, the Town should provide the board with the calculations whenever adjustments are recommended.

We find no further adjustment is warranted to these three lots nor is any adjustment warranted on Lot 3/101-3.

The Taxpayer did not present any credible evidence of the fair market value on any of the lots. To carry this burden, the Taxpayer should have made a showing of the lots' fair market values. These values would then have been compared to the lots' assessments 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.

Page 4

Humphreys v. Town of Francestown
Docket No.: 8399-90

If the taxes have been paid, the amount paid on the value in excess of \$253,020, which is the total of the two 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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Henry C. Humphreys, Taxpayer; and Chairman, Selectmen of Francestown.

Dated: May 27, 1993

Melanie J. Ekstrom, Deputy Clerk

0005

Henry C. Humphreys
v.
Town of Frankestown

Docket No. 8399-90

ORDER

This order relates to the "Taxpayer's" reconsideration request. The request fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

Request denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Henry C. Humphreys, taxpayer; and the Chairman, Selectmen of Frankestown.

Valerie B. Lanigan, Clerk

Date: July 7, 1993

0003