

**Neil R. Noyes, Sr.**

**v.**

**Town of Tilton**

**Docket No.: 8553-90**

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of:

\$109,400 (land \$30,800; buildings \$78,600) on Map R21, "Lot 18", a 1.3-acre lot with a house;

\$4,700 on Map R21, "Lot 27", a vacant, .014-acre lot;

\$54,900 on Map R21, "Lot 46", a vacant, 4.5-acre lot; and

\$45,500 on Map R21, "Lot 51", a vacant, 3.7-acre lot (the Properties).

For the reasons stated below, the appeal for abatements is granted on Lots 18 and 51 and denied on Lots 27 and 46.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).

The Taxpayer argued the assessments were excessive because:

Lot 18

(1) the house was built in 1985 with second hand furnace, water pump, kitchen

cabinets, bathtub, windows, garage door, etc.;

(2) in June, 1990, Joanne Chandler of Cummings Realty recommended a listing price of \$79,000;

(3) in March, 1993, Realty World recommended listing the Property for \$69,000; and

(4) the lot is residential, not a lake lot.

#### Lot 27

The Taxpayer agreed that this lot was not any longer in contention.

#### Lot 46

(1) the lot is unbuildable, there is no way to put in a sewer;

(2) 3.8 acres of the lot was put in current use in 1991 because it is totally under water; and

(3) the Taxpayer tried to sell the lot for \$20,000 with no luck.

#### Lot 51

(1) the lot is more than 50% covered with power lines going through the center;

(2) the only good portion of the lot has a water drainage problem through the middle of the lot and the Taxpayer does not know if it's buildable;

(3) the State owns 60 feet from the road where the old road bed used to be and the railroad owns 50 feet on the other end of land as their right-of-way is 100 feet wide; and

(4) the Taxpayer would be lucky to sell the lot for \$20,000.

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The Town argued:

Lot 18

Based on its review of the lot, the Town recommended revising the assessment to \$84,200. After inspecting the property in December, 1991, the Town noted the effect of used materials, furnace, etc. and recommended a 25% physical depreciation to the house for its low quality and second hand materials, and a 3% functional depreciation for the lack of front steps. Further, an adjustment from 1.50 to 1.40, because the lot does not have beach access, is recommended. This recommended revised assessment is fair and proportionate and, when adjusted, falls in line with the Taxpayer's 1993 listing.

Lot 46

- (1) the lot has not been proven to be unbuildable and it is up to the Taxpayer to prove that it is not;
- (2) the assessment has been reduced to \$43,500 as a result of a reinspection by AVITAR when it was determined that the site value should be reduced and the back acreage was reduced; and
- (3) the revised assessment is fair and equitable.

Lot 51

- (1) upon review of the lot, the Town finds that roughly 2.0 acres of the land is encumbered with the railroad tracks but the balance of 1.7 is a good

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building site; and

(2) the backland should be reduced to \$6,000 (.50 condition) to arrive at a recommended assessment of \$43,100.

Board's Rulings

Based on the evidence, the board finds the correct assessments should be as follows:

Lot 18

The board finds, based on the evidence, that the Town's recommended assessment of \$84,200 adequately adjusts for the physical and functional depreciation on the house. Further, the adjustment is to the land for the fact that it does not have beach access is fair.

Lot 27

The Taxpayer stipulated that he was no longer contesting this lot.

Lot 46

The board finds the Taxpayer failed to prove this lot's assessment was disproportional. The Taxpayer did not present any credible evidence of the lot's fair market value. To carry this burden, the Taxpayer should have made a showing of the lot's fair market value. This value would then have been compared to the lot's assessment 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);

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Appeal of Town of Sunapee, 126 N.H. at 217-18. Further, the Taxpayer did not provide evidence to support the contention that the lot is unbuildable.

Lot 51

The board finds the Town's recommended assessment of \$43,100 is fair and equitable. The Taxpayer provided no evidence of the lot's fair market value.

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If the taxes have been paid, the amount paid on the values in excess of the above assessments shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Neil R. Noyes, Sr., Taxpayer; and Chairman, Selectmen of Tilton.

Dated: September 16, 1993

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Valerie B. Lanigan, Clerk