

Thomson et al.

v.

Town of Holderness

Docket No.: 8613-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$1,112,500 on Lot 74, a waterfront estate with a 7.51-acre lot and 309.75 feet of frontage on Squam Lake, and \$92,200 (land only) on Lot 74-2, a 2.09-acre 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 abatement is granted on Lot 74, but denied on Lot 74-2.

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 Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved disproportionality.

While the Taxpayer appealed both assessments, the Taxpayer basically

conceded the \$92,200 assessment on Lot 74-2 was reasonable. Therefore, we find the Taxpayer failed to prove overassessment on Lot 74-2. The remainder of this decision will be on Lot 74.

The Taxpayer argued the assessment on Lot 74 was excessive because:

1) an April 1, 1990 appraisal estimated the Property's value at \$980,000;

Page 2

Thomson et al. v. Holderness

2) a May 1991 purchase-and-sales agreement on Lots 74 and 74-2 was \$1,080,000; and

3) it was inequitable relative to other assessments.

The Board carefully reviewed the Taxpayer's submittals, and any omission in reiterating an argument does not mean the board did not consider the argument.

The Town argued the assessment on Lot 74 was proper because:

1) two recent sales supported the assessment (the Town did not supply any information on these sales other than the prices and the property-record cards);

2) the \$1,080,000 purchase and sales price was a bargain;

3) the Taxpayer's comparables in the inequity section required certain additional adjustments; and

4) it was supported by other assessments.

#### Board's Rulings

Based on the evidence, we find the correct assessment on Lot 74 should be \$980,000. This assessment is ordered because we find the condition factor on the land line does not reflect the serious adverse impact the abutting public beach has on the Property's value. Any prospective purchaser

of this high-end property would expect more privacy. The \$980,000 is also in line with the Taxpayer's 1991 adjusted sales price. Finally, the Town's evidence did not support the assessment.

If the taxes have been paid, the amount paid on the value in excess of \$980,000 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.

Page 3  
Thomson et al. v. Holderness

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Thelma L. Thomson, Mazie Malek and Thelma E. Fletcher, Taxpayers, and Selectman, Town of Holderness.

Dated: October 16, 1992

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Melanie J. Ekstrom, Deputy Clerk