

**Frederick G. and Anne P. Butterworth**

**v.**

**Town of Wolfeboro**

**Docket No.: 8679-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$28,100 (land only) consisting of 2-acres (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 denied.

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

The Taxpayers argued the assessment was excessive because:

- 1) the Property's assessed value is a ten-fold increase over the 1989 assessment;
- 2) the Property is "land-locked, with no right-of-way to it"; and
- 3) the Property is "practically worthless."

The Town argued the assessment was proper because:

- 1) due to lack of sales on "landlocked property," the Taxpayers' Property was assessed by using the highest and best use which was determined to be "abutter value" as the Property does not have direct access and is landlocked; and
- 2) the assessed value is considered a fair and equitable abutter value due to the waterfront amenity.

The board finds the Taxpayers failed to prove their assessment was disproportional. The Taxpayers did not offer any evidence showing the assessment was unfair, unequitable or disproportionate. Concerning the Property's lack of record access, the Town's assessment made adequate adjustment for this. Furthermore, while record access may not exist, the Property might obtain record access by purchasing a right-of-way or by petitioning a court for an easement by necessity. We also find the Town supported the Property's assessment.

Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

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 certify that copies of the within Decision have this date been mailed, postage prepaid, to Frederick G. & Anne P. Butterworth, taxpayers; and the Chairman, Selectmen of Wolfeboro.

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Melanie J. Ekstrom, Deputy Clerk

Date: March 10, 1992

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