

Richard and Theresa Noyes

v.

Town of New Hampton

Docket No.: 8700-90LC

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 land-use-change-tax (LUCT) assessment of \$14,875 on a one-acre portion of Lot 1B, a 21.05-acre lot with one acre and a shed not in current use, and 20.05 acres in current use (the Property). For the reasons stated below, the appeal for abatement is granted based upon a recommended revision by the Town at the hearing.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers did not carry this burden, but an adjustment is made based upon the Town's recommended value.

The Taxpayers argued the assessment was excessive because:

- (1) the Property was purchased in August, 1988 for \$26,900;
- (2) the topography slopes at least 25 degrees up from the road; and
- (3) the cleared, one-half acre should be valued between \$1,200 and \$1,500 per acre.

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The Town argued the original LUCT assessment was reduced from \$20,188 to \$14,875 to address the topography on the one-acre portion removed from current use. Based on the sketch prepared and submitted by the Taxpayers, the Town has agreed to compute the value based on one-half acre and recommends revising the value to \$13,800 for a tax of \$1,380.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$13,800.

This assessment is ordered because:

- 1) the board finds that the area changed and no longer eligible for current use approximates 1/2 acre;
- 2) the board finds the Town's assessment of this 1/2 acre at \$13,800 is reasonable and proportional;
- 3) the Taxpayers' argument of a pro rata assessment based on the sale price in 1988 on a per-acre basis does not reflect the requirement of arriving at the market value for the disqualified area, See RSA 79-A:7 I;
- 4) the Taxpayers purchased this lot primarily for use as a building lot; the Taxpayers testified that the balance of the land was very steep and not developable; therefore, the contributory value of the developable house site is significantly more than the per-acre value based on the entire parcel; and
- 5) subtracting the Town's estimated market value for the half acre home site of \$13,800 from the purchase price of \$26,900 leaves a value for the supplemental land between \$600 and \$700 per-acre; this supplemental land value is reasonable based on the board's experience and

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knowledge; the agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

If taxes have been paid, the amount paid on the value in excess of \$13,800 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

George Twigg, III, Chairman

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard and Theresa Noyes, Taxpayers; and Chairman, Selectmen of New Hampton.

Dated: December 21, 1993

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Valerie B. Lanigan, Clerk