

Louis R. Nichols, Jr.

v.

Town of Peterborough

Docket No.: 8703-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$39,500 (land, \$39,000; building, \$500.00), consisting of a 26 acre woodlot with a cabin (the Property). 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.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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). We find the Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- 1) the Property was purchased in 1958 for \$300.00;
- 2) the Property is not saleable, except to a possible abutter, as the Property

has no road frontage and "there does not appear to be a deeded right-of-way;  
and

3) an appraisal dated December 20, 1990, prepared by Jack L. Burwick, of  
George Walsh & Associates Real Estate, indicated a market value of \$11,000  
which was "based on the premis that the parcel is entirely "land-locked"; and  
4) an indicated comparable sale which had occurred in 1987, was purchased for  
\$20,000, which consisted of 80 acres.

The Town argued the assessment was proper because the appraiser  
reviewed Taxpayer's assessment card and stated, "the lot was considered a back  
lot," and "recommended no change."

The board finds the Town made no distinction between back land with  
access and Taxpayer's back land which appears to have questionable access. In  
arriving at this decision the board had to weigh the appraisal of Mr. Burwick  
(with its understandable lack of sales data) with the board's knowledge and  
experience of similar properties with limited or questionable access.  
Consequently, we find the land should be reduced by twenty (20%) percent for  
its uncertain access. Therefore, the correct assessment should be \$31,700  
(land \$31,200 and building \$500.00).

If the taxes have been paid, the amount paid on the value in excess  
of \$31,700 shall be refunded with interest at six percent per annum from date  
paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

Date: September 13, 1991

I certify that copies of the within decision have been mailed this date, postage prepaid, to Louis R. Nichols, Jr., Taxpayer and Selectmen of Peterborough.

Date: September 13, 1991

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Melanie J. Ekstrom, Deputy Clerk