

William Eaton and Wendy A. Moulton

v.

Town of Newton

Docket No. 8709-90

DECISION

The "Taxpayers" appeal pursuant to RSA 79-A:10, the "Town's" land-use-change-tax (the Tax) assessed on a 1.65-acre lot (the Lot). The Tax was assessed when the Lot was subdivided and conveyed from a larger lot because the Lot did not meet the minimum-size requirement. For the reasons stated below the appeal is granted.

The Town failed to appear, but consistent with our Rule, TAX 102.03(g), the Town was not defaulted. This decision is based on the evidence presented to the board.

The Taxpayer argued the Tax was excessive because:

- 1) a bank had appraised the Lot for \$35,000 in 1990;
 - 2) the Town assessed the Lot in 1992 for \$37,400;
 - 3) a lot this size would not sell for \$50,000 (The Taxpayer reached this conclusion because he was familiar with the market on vacant lots.);
 - 4) the Lot is subject to a well easement that benefits a neighboring property;
- and
- 5) they were unable to put a driveway onto the Lot and had to acquire an easement from an abutting lot for the driveway.

The Taxpayers argued the Tax should only be \$3,500.

Based on the evidence, the board finds the Tax should have only been \$3,500. The Taxpayers submitted sufficient evidence to carry their burden. The Town did not submit any information upon which the board could reach a

contrary

conclusion nor did the Town explain how it arrived at the assessment upon which the Tax was based.

If the Tax has been paid, the amount paid in excess of \$3,500 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William Eaton and Wendy Moulton, taxpayers; and the Chairman, Selectmen of Newton.

Valerie B. Lanigan, Clerk

Date: December 18, 1992

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