

**Eleanor M. Weiner**

**v.**

**Town of Alton**

**Docket No.: 8852-90PT**

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$335,700 (land \$220,600; buildings \$115,100) on a .50-acre lot with a house (the Property). For the reasons stated below, the appeal for abatement is granted to the Town's recommended assessment.

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

The Taxpayer argued the assessment was excessive because:

- (1) the house has been on the market for two years and no purchase offers have been made;
- (2) the Property was listed in 1991 for \$329,000 and was reduced to \$279,000 in 1993; and
- (3) the realty listing indicated only 80 feet of frontage rather than the 97.5 feet listed by the Town.

The Town argued the assessment was proper because:

- (1) Taxpayer has been asking an excessive price for the Property, thus no serious offers have been received;
- (2) an appraisal prepared by William Corcoran, performing both the cost and market approaches, estimated a 1990, \$325,000 market value;
- (3) the lot is level with a sandy beach, which are unusual features for Lake Winnepesaukee; and
- (4) adjusting the frontage from 97.5 feet to 80 feet reduces the recommended assessment to \$334,300.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$334,300 (land \$219,200; building \$115,100). This assessment is ordered because the Town recommended a correction of the assessment based on the deeded description of frontage being 80 feet rather than 97.5 feet.

No further reduction is warranted because the Town supported the assessment with an appraisal which indicates the market value in 1990 was \$325,000. The Town demonstrated in their report that the Taxpayer's asking prices were excessive when equalized by the equalization ratio for the Town of Alton. Since the Town's general level of assessment has exceeded full market value in 1991 and 1992 by 20% to 40%, it is reasonable that properties cannot sell for the assessment or something slightly under the assessment.

If the taxes have been paid, the amount paid on the value in excess of \$334,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

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BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Eleanor M. Weiner, Taxpayer; and Chairman, Selectmen of Alton.

Dated: October 21, 1993

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Valerie B. Lanigan, Clerk