

Fred W. Hopkins

v.

Town of Stoddard

Docket No.: 9021-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$93,300 on a vacant, .69-acre lot (the Property). The Town revised the assessment to \$87,400. For the reasons stated below, the appeal for abatement is granted to the Town's adjusted 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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).

The Taxpayer argued the assessment was excessive because:

- (1) the pond is a warm-water pond;
- (2) the lot is only .69 acres and there is a limited amount and quality of water frontage;
- (3) the Property is not serviced by electricity;
- (4) it exceeded market value as demonstrated by the Taxpayer's marketing of the Property and the January, 1993 \$69,900 sale of the Property;

(5) it was inequitable compared to adjoining lots (The Taxpayer presented exhibits on this point, using averaging of certain value factors.).

The Town argued the adjusted assessment was proper because:

(1) the 1993 sales trended to April 1990 demonstrated a \$88,750 trended value;

(2) it was consistent with Property's condition as shown by the photographs; (3) it was consistent with the Harkless sale with adjustment made given the Property's superiority; and

(4) it was consistent with the assessments on adjoining lots with adjustment made for conditions of the lots.

BOARD RULINGS

Based on the evidence, we find the correct assessment should be \$87,400 as recommended by the Town. No further adjustment is warranted.

The Taxpayer used an averaging technique to compare his assessment with adjoining lots. Averaging property values, as done by the Taxpayer, does not necessarily prove "disproportionality"; it only proves that the Taxpayer's land was assessed more than the average property. Appraisals are not averages; rather they are the correlation of general sales data to the unique characteristics of a specific property. The Taxpayer's methodology was, therefore, flawed and cannot be relied upon.

Additionally, the Taxpayer's time-adjusted sales price clearly supports the assessment ($\$69,900 \times 1.23 = \$85,908$) and reflects the downturn in the market from 1990 to 1992.

If the taxes have been paid, the amount paid on the value in excess of \$87,400 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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Fred W. Hopkins, Taxpayer; and Chairman, Selectmen of Stoddard.

Dated: September 28, 1993

Valerie B. Lanigan, Clerk

Fred W. Hopkins

v.

Town of Stoddard

Docket No.: 9021-90PT

ORDER

This order responds to the "Taxpayer's" rehearing motion, which is granted.

The ordered assessment shall be \$83,030, which reflects a -5% adjustment due to the lot not being directly serviced by electricity. The board reviewed the hearing transcript and concluded an adjustment should have been made.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, to Fred W. Hopkins, Taxpayer; and Chairman, Selectmen of Stoddard.

Dated: November 19, 1993

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Valerie B. Lanigan, Clerk