

**Thomas A. and Joanne M. Coneys**

**v.**

**Town of Rindge**

**Docket No.: 9029-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$161,300 (land \$79,900; buildings \$81,400) on Lot 24-1, a 10.70-acre lot with a house (the Property). The Taxpayers own, but did not appeal, Lot 24-2 assessed at \$38,800 and Lot 25-2 assessed at \$139,500. The Taxpayers 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 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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because an April 1, 1990 appraisal estimated a \$126,000 value.

The Town argued the assessment was proper because:

- 1) based on comparative acreage, the Taxpayers' lot has been assessed equitably; and
- 2) the Taxpayers' Lot 24-2 is not comparable because the assessment was reduced significantly to address ledge and wetlands.

Board's Rulings

Based on the evidence, the board finds the correct assessment should be \$141,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

This assessment is ordered because:

- 1) the Town's land valuation includes a contributory estimate for both the frontage and a site value apparently to recognize the additional value for the two dwelling sites;
- 2) the Taxpayers' income approach estimate on the rental unit of \$38,000 was reasonably calculated and inherently includes the value of its site and utilities;
- 3) the difference between the Taxpayers' \$38,000 estimate for building and site and the Town's depreciated replacement cost of the rental unit of \$27,600 indicates a site value of approximately \$10,000;

4) the Town's site value of \$29,750 is excessive based on this analysis and based on the low value of the rental unit; and

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5) the board does not adopt the Taxpayers' market approach estimate due to the size adjustments, the questionable arms-length aspect of sale #2, and the error made in land size adjustments to sales #1 and #2.

If the taxes have been paid, the amount paid on the value in excess of \$141,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3.

The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas A. and Joanne M. Coneys, Taxpayers; and Chairman, Selectmen of Rindge.

Dated: April 26, 1993

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Melanie J. Ekstrom, Deputy Clerk