

Beatrice K. Conover

v.

Town of Holderness

DECISION

Docket No. 9254-90

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$455,400 (land, \$454,800; buildings, \$600) on her real estate Routes 3 and 25, consisting of a shed on 1.37 acres with 205 feet of frontage on Squam Lake (the Property). 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(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved disproportionately.

The Taxpayer argued the assessment was excessive because:

(1) an appraisal done by Armstrong Appraisal Associates estimated the April 1, 1990 market value of the Property at \$386,000.

The Town argued the assessment was proper because:

(1) assessments on Squam Lake waterfront were consistently arrived at using

yardsticks derived from recent sales. Average one acre sites were valued at \$400,000, average additional acreage was valued at \$40,000 per acre, and average additional frontage was valued at \$500 per foot in increments of 150 feet for frontage above and beyond the first 150 feet. . .

(2) the Property's access and open water views affect the road and boat traffic and noise;

(3) the site was considered ten percent above average; and

(4) the assessments of four neighboring properties demonstrate the consistency of the town's methodology.

Based on the evidence, we find the correct assessment should be \$415,400

(land \$414,800 and building \$600). This assessment is ordered because:

(1) the taxpayer's appraisal contained several good comparable sales and reasonable adjustments to arrive at its estimate of value;

(2) the taxpayer's appraisal largely fulfills the taxpayer's burden of proof and the burden of persuasion then falls on the Town;

(3) the Town failed to submit the sales they stated formed the basis for their various base values;

(4) in comparing the assessment records the town did submit, there appears to be no specific adjustment for developed versus undeveloped lots, no additional frontage was calculated for Lot 19 (even though it had more than the 300 foot increment) and no stated reasons for the varying condition factors other than subjective appraiser judgement;

(5) the lot can be considered "average" with a 1.00 condition factor similar to Lot 17;

(6) instead of averaging the value indicators (as was done by the taxpayer's appraiser), the most comparable sale in the appraisal (#4) indicates a value of nearly \$400,000, which supports the reduction to \$415,400.

If the taxes have been paid, the amount paid on the value in excess of \$415,400 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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 Beatrice K. Conover, taxpayer; and the Chairman, Selectmen of Holderness.

Dated:

Valerie B. Lanigan, Clerk

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