

David A. Coppage

v.

Town of Tilton

Docket No.: 9323-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$34,100 (land only) on Map R10, Lot 63, a 0.51 acre lot (the Property). The Taxpayer owns but did not appeal Map R10, Lot 62 consisting of 0.80 acres of land and a cape. A garage sits on Lot 62 but is assessed as part of Lot 63. 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 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 Town has assessed the lot commercially but it does not meet the Town or State's qualifications for a commercial lot;
- (2) the highest and best use of the Property is as supplemental land to an abutter or to the Taxpayer's Lot 62;
- (3) the lot is encumbered with a septic system to service Lot 64;

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- (4) further development couldn't meet set-back requirements;
- (5) it is not visible from route 3; and
- (6) the fair market value of the Property as of April 1, 1990 is \$4,900.

The Town argued the assessment was proper because:

- (1) the Property has vested rights which under normal circumstances would permit development as a commercial lot;
- (2) the Property was assessed consistent with other similar lots in Town;
- (3) the assessment was fair in 1990 because the Town did not have information about the size and location of the leach field easement; and
- (4) given the evidence testified to at the hearing, a 25% adjustment for the easement would be fair and equitable.

Board's Rulings

Based on the evidence, the board finds the Town's recommended reduction of 25% for functional depreciation as a result of the leach field easement would be reasonable.

The board rules the correct 1990 assessment would be $(\$34,100 \times .75)$, \$25,575. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

If the taxes have been paid, the amount paid on the value in excess of \$25,575 shall be refunded with interest at six percent per annum from date

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paid to refund date.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to David A. Coppage; and Chairman, Selectmen of Tilton.

Dated: 9/13/93

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Valerie B. Lanigan, Clerk