

**Rebecca Ilfeld**

**v.**

**Town of Hollis**

**Docket No.: 9638-90 and 11963-91PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessment of \$254,100 (land \$122,900; building \$131,200) on Map 9, Lot 74, a 5.7-acre lot with a house (the Property). The Taxpayer 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 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 disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the building needs interior and exterior painting, the basement has low ceilings, and the upstairs rooms are too small to be bedrooms;

- 2) 2.12 acres of the Property is swampland and should be assessed at \$500 per acre like other similar properties are;
- 3) other similar properties were given 15% topography depreciation, but the Property was not; and
- 4) a 4-acre, superior lot containing no swamplands sold on June 7, 1990 for \$90,000.

The Town argued the assessment was proper because:

- 1) the assessment has been the same since the 1986 revaluation and the Taxpayer never appealed before;
- 2) the Taxpayer's abutting lot should not have been assessed as swamplands because according to the Town's tax maps, the lot does not have any swamps;
- 3) the \$90,000 sale is not comparable because it has only 20 feet of frontage and the Property has 360 feet of frontage; and
- 4) the Property was assessed the same as other properties in the Town.

**Board's Rulings**

Based on the evidence, the board finds the proper assessment should be \$227,775 (land \$101,325; building \$126,450). The board adjusted the assessment for the swamp area and gave additional depreciation on the pool. Concerning the swamp, the Taxpayers' survey indicated the amount of swampland on this Property, and we accept the Taxpayers' evidence that the land is swampy and should have been assessed at \$500 an acre.

The land is calculated as follows.

2 acres x \$45,000 x .9	= \$ 81,000
1.55 acres x \$15,000 x .7	= \$ 16,275
2.1 acres x \$500	= <u>\$ 1,050</u>
	\$ 98,325
water and sewer	= <u>\$ 3,000</u>
land total	\$101,325

We find insufficient evidence to make further adjustments to the land.

Concerning the pool, the board's inspector reviewed the file, and he concluded that a total of -50% depreciation was appropriate for the pool, and we have included this in our calculations.

Finally, no further adjustment is warranted because the Taxpayer failed to provide sufficient evidence on the Property's value as a whole.

If the taxes have been paid, the amount paid on the value in excess of \$227,775 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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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

Page 4  
Ilfeld v. Town of Hollis  
Docket No.: 9638-90

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Mark Lutter, Agent for Rebecca Ilfeld, Taxpayer; and Chairman, Selectmen of Hollis.

Dated: April 22, 1993

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Melanie J. Ekstrom, Deputy Clerk

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