

Maurice S. Annette, and Donald & Dorothy Langley

v.

Town of Enfield

Docket No.: 9726-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$84,700 (lot 8-38-B) (land only) on 73.6 acres with frontage on Crystal Lake (the Property) with one-half interest assessed against each couple. 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).

The Taxpayers argued the assessment was excessive because:

- 1) the Property is steep with poor water and land access;
- 2) the assessment went up many fold from the prior year's assessment; and
- 3) it was higher than other assessments on nearby properties (comparing the

per-acre values and the lake-frontage values).

The Town argued the assessment was proper because it was consistent with other assessments as shown on the assessment spreadsheet.

The Town failed to specifically address the Taxpayers' concerns.

Based on the evidence, we find the correct assessment should be \$55,620. This assessment is ordered because the Town erred by not carrying the one-half interest forward in calculating the second and third land lines.

The first line states one-half interest, and the valuation is one-half. However, the second (for excess acreage) and third (for frontage) were for full value. Thus, the assessment for each one-half interest should be calculated as follows.

43,500 square feet x \$61 =	\$26,572
72.60 acres x 345 =	25,047
200 front feet x 20 =	<u>4,000</u>
	\$55,619 (rounded \$55,620)

The board reviewed other property-record cards to see how the Town calculated the second and third lines, and the review confirmed the Town's error.

If the taxes have been paid, the amount paid on the value in excess of \$55,620 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.

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Whenever the board grants an appeal because of clerical error or plain and clear error of fact, and not interpretation, RSA 76:7-a authorizes the board to order the Town to reimburse the Taxpayers' filing fee. The board finds such an order is appropriate, and the Town is ordered to reimburse, within ten (10) days of the clerk's date, the Taxpayers' \$40.00 filing fee.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Maurice S. Langley, Taxpayer; and Chairman, Selectmen of Enfield.

Dated: July 27, 1992

Melanie J. Ekstrom, Deputy Clerk

Maurice S. Langley, Annette Langley, Donald Langley and Dorothy Langley

v.

Town of Enfield

Docket No. 9726-90

ORDER RE: TOWN'S MOTION FOR RECONSIDERATION

In the "Town's" motion for reconsideration received on August 6, 1992, the Town stated it did not believe it erred in failing to carry the 1/2 interest ownership adjustment forward in calculating the second and third land lines on the property assessment record card.

Board's response.

The assessments of the two respective half interests under appeal are separately valued on assessment record cards that are given the numerical designation of Map 8, Lot 38, Card B owned by Maurice S. and Annette Langley and Map 8, Lot 38 owned by Donald and Dorothy Langley. The board in deliberating on this case attempted to understand how the Town arrived at the condition factors and resulting values for the second and third land line calculations.

There is no description of how condition factor was calculated on Map 8, Lot 38, Card B. In the area the assessment card headed "notes/valuation authority hearing changes" there is only a reference "See 38." Neither party supplied a copy of that portion of the assessment record card for Map 8, Lot 38. Thus, if there were any notes, describing how the condition factors were arrived at and if the 1/2 interest ownership of the

property was considered, they were not made available to the board.

The board then reviewed all the assessment record cards supplied by both the Town and the "Taxpayers" in an attempt to determine how the Town had assessed other similar property where 1/2 interest ownership was not an issue.

The one property that appeared most comparable to the Langley property was one owned by John and Gloria Alphano (Map 8, Lot 2). This parcel while not abutting is nearby the subject property and has similar rear acreage. The Alphano rear acreage also had a condition factor of thirty, as did the respective 1/2 interest of the Langley property. From this comparison, the board determined similar rear acreage should have a condition factor of thirty. Since the Langley's respective 1/2 interest each had a condition factor of thirty (rather than 15), the board determined that the Town had erred in applying consistent methodology to the rear land and from the evidence available to the board, it appeared as if the Town had neglected in the second and third land lines to account for the 1/2 interest valuation of the Langley's interest in the property.

Therefore, the board's order of July 27, 1992, which found the proper value for each respective 1/2 interest to be \$55,620 and in which the board ordered the Town to refund the Taxpayers' \$40.00 filing fee, stands as written.

The Town and its contracted appraisal company, M.M.C., should heed this decision and attempt to make their assessment record cards less ambiguous by clearly showing on the card the calculations that arrive at the various assessment factors.

Therefore the Town's motion for reconsideration is denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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I certify that copies of the within Order have this date been mailed, postage prepaid, to Maurice S. Langley, taxpayer; and the Chairman, Selectmen of Enfield.

Valerie Lanigan, Clerk

Date: October 29, 1992

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