

Richard M. and Edith M. Wheeler

v.

Town of Enfield

Docket No.: 9743-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$64,900 lot 11-20-1 (land, \$41,900; buildings, \$23,000) on a 1970 mobile home on 5.1 acres (the Property). 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:

- (1) the Property was sold on August 21, 1991 for \$50,000;
- (2) an appraiser valued the Property at \$49,500 (not supplied to board);

(3) it was a substantial increase over the prior year's assessment; and

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(4) the 5.1 acres is steep and non-subdividable since the minimum lot size is 3 acres.

The Town argued the assessment was proper because it was consistent with other mobile home assessments, including one 1989 sale (a spreadsheet was submitted).

Based on the evidence, we find the correct assessment should be \$56,800 (land \$36,400 and building \$20,400). This assessment is ordered because:

- (1) the evidence supports reducing the condition factor on the site to 70 and the rear land to 50 to further recognize the topographical problems;
- (2) the photographs and Town's comparables support the grade of the mobile home should be reduced to "average" from an "average +10" grade; and
- (3) the sale of the Property in August of 1991 for \$50,000 (with the Town's 1991 equalization ratio of 108 percent) is some evidence of market value.

If the taxes have been paid, the amount paid on the value in excess of \$56,800 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

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prerequisite for appealing to the supreme court. RSA 541:6.

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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 Richard M. and Edith M. Wheeler, taxpayers; and Chairman, Selectmen of Enfield.

Dated: June 24, 1992

Melanie J. Ekstrom, Deputy Clerk

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