

Edward D. and Nancy G. Smith

v.

Town of Enfield

Docket No.: 9929-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$35,500 on a 27,760 square foot lot (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).

The Taxpayers argued the assessment was excessive because:

- 1) the land is undeveloped;
- 2) the Property was purchased August, 1989, for \$20,000;
- 3) the lot is on a brook, not the lake;
- 4) it was a significant increase from the 1989 assessment; and

5) it cannot be built on (it appears Taxpayers own an abutting lot in Grantham.)

The Town argued the assessment was proper because:

- 1) the Property was given a 40% adjustment for being undeveloped;
- 2) it was consistent with other assessments; and
- 3) it was supported by three sales.

Based on the evidence, we find the correct assessment should be \$21,300. The Town did recognize that the lot had minimal lake frontage by using an influence factor of 150 rather than 175 as was used on lots with actual lake frontage. However the Town did not address the Taxpayers' assertion, supported by manager of the owners association, that the Property could not be built on. Since the owner apparently owns the adjoining lot across the town line in Grantham, an additional minus 40 percent adjustment should be applied to the lot to reflect its unbuildable nature and its contributory value as part of a larger estate. See RSA 75:9. Further the Taxpayers' purchase of the Property in August 1989 for \$20,000 is some evidence of market value. Again the appraisal company, representing the Town, did not fully investigate and address the concerns raised by the Taxpayers.

If the taxes have been paid, the amount paid on the value in excess of \$21,300 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

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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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I hereby certify a copy of the foregoing decision has been mailed
this date, postage prepaid, to Edward D. and Nancy G. Smith, Taxpayers; and
Chairman, Selectmen of Enfield.

Dated: July 16, 1992

Melanie J. Ekstrom, Deputy Clerk