

**Joseph N. and Rose A. Hough**

**v.**

**Town of Pittsfield**

**Docket No.: 10911-91 LC**

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" July 3, 1991 land-use-change tax (LUCT) assessment of \$55,000 on a vacant, 7.8-acre lot, resulting in a \$5,500 LUCT (the Property). 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 met the burden of proof.

The Taxpayers argued the assessment was excessive because:

- (1) the lot was listed for sale for four years for \$60,000 and was finally sold to the Taxpayers in June 1991 for \$36,000;
- (2) the LUCT should be 10% of the sale price;
- (3) adjoining lots are also listed at \$60,000 but have not sold;

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(4) the lots had been appraised at \$54,000 in 1988, but despite their views and open land are not able to be marketed for that amount at the date of change; and

(5) the uncertainty of the LUCT caused a chilling effect on the marketing of the lots.

The Town argued the assessment was proper because:

(1) the Town originally assessed the LUCT at the Property's property tax assessed value of \$81,100 but abated to \$55,000 after a review by an appraiser;

(2) the lot has excellent views, a three acre field and good soils; and

(3) the lot was sold to create some activity for the remaining lots in the subdivision and the Taxpayer got a good buy.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$50,000

This assessment is ordered because: Mr. Fred Noyes, the grantor, acknowledged that his selling price of \$36,000 was less than full market value. He testified that his marketing strategy was to sacrifice his first lot in order to get some building activity going and thus generate interest in the market place for the remaining undeveloped lots listed at \$60,000.

If the LUCT tax has been paid, the amount paid on the value in excess of \$50,000 shall be refunded with interest at six percent per annum from date

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paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph N. and Rose A. Hough, Taxpayers; and Chairman, Selectmen of Pittsfield.

Dated: September 14, 1993

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Valerie B. Lanigan, Clerk