

**Ellen F.D. Bennett**

**v.**

**Town of Holderness**

**Docket No.: 11055-91 PT**

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$437,100 (land \$390,300; buildings \$46,800) on a one-third interest in a 66-acre island on Squam Lake with three camps (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Town did not make an adjustment for the Property being located on an island, accessed only by boat;
- (2) island properties normally sell for 1/3 to 1/2 the mainland values;
- (3) the original assessment was increased by 32% due to the enhancement value of granting a conservation easement;

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(4) an appraisal in 1990 done by George Lamprey for the conservation easement estimated the enhancement value at 10%;

(5) Bowman Island of 23 acres sold in December 1992 for \$975,000 to the Conservation Trust of Virginia with the hope that the Squam Lake Assoc. would repurchase it for conservation purposes; it was assessed for \$1,234,300;

(6) this sale indicates that the Town's base values were too high;

The Town argued the assessment was proper because:

(1) the best evidence of market value of the Taxpayer's market value is the sale of Morrison Island for \$350,000 in July 1991;

(2) Morrison Island is only a third of an acre, and if an island of that size would sell for \$350,000, then an island containing three developed sites of two acres each surrounded by 60 acres of undeveloped land would reasonably have the value as assessed;

(3) the increase from the original assessment to the one under appeal was not due to the granting of the conservation easement but rather due to a general revision of all island properties after the informal reviews by Apple Appraisal, Inc.; and

(4) the sales of property on islands on Squam Lake do not support a reduction of the base value from mainland property for the conditions related to islands.

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### **Board's Rulings**

For the following reasons, we find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

### **Enhancement Value**

As of April 1, 1991 the Taxpayer had granted a conservation easement on partial acreage of the Property. As established in the related decision for the 1990 tax year, (Docket No.: 9544-90, Ellen F.D. Bennett/William W. Dunnell, III/Jacob Dunnell v. Town of Holderness), the Town had not increased the original assessment based on any enhancement value for the granting of the conservation easement. In considering whether the 1991 assessment is proper however, the board must consider all factors that relate to market value. See Paras v. City of Portsmouth, 115 N.H. 663, 667-68 (1975). While the Town did not add specifically for the enhancement value in 1991, the board finds this is an additional positive factor affecting value that must be considered in determining if the 1991 assessed value is proper.

### **Market Value - Island v. Mainland**

The board finds that the Squam Lake market evidence presented in this case does not support the normal contention that island properties sell for less than mainland properties. The board is aware of the inconveniences of

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island ownership that could potentially affect their market value (e.g. seasonal access only by boat, limited fire protection, higher cost to obtain utilities, etc.). However, these inconveniences are to some extent often offset by such things as increased privacy and protection and the general uniqueness of an island situation. For these pluses and minuses of island ownership to be quantified, sales of islands comparable to the subject are the best measurement of how the market views this interplay of the conditions of island ownership.

In this case, the parties presented primarily two sales that occurred on Squam Lake that provided an indication of the market for islands on Squam Lake. The board finds that both the Bowman Island sale as introduced by the Taxpayer and the Morrison Island sale as introduced by the Town generally support the base values used in deriving the Taxpayers' assessment.

The Bowman Island sale occurred in December 1992 and sold for \$975,000, while being assessed for \$1,234,300. The only evidence available as to the change in market from the appeal date of 1990 and the sale date of 1992 is the Department of Revenue Administration's equalization ratio for 1992 of 1.20. By equalizing the sale price of \$975,000, the resulting value of \$1,170,000 generally supports the Town's assessment for that property. The board finds that the Bowman Island sale was generally an arms-length transaction. The

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Town's contention that personal income tax considerations may have affected the transfer price was not supported by the Taxpayers' testimony that they were very familiar with the details of the transaction and that the sale price did not include such income tax or gift considerations.

The Morrison Island sale for \$350,000 in 1991 also supports the Town's assessed values. If the sale price is equalized by the 1991 ratio of 1.05 the indicated 1990 value of \$367,500 ( $\$350,000 \times 1.05$ ) supports the Town's assessment of \$370,900.

The Town also submitted several assessment record cards for other island properties on Squam Lake which show the Town consistently applied the base prices and the condition factors in a uniform and consistent manner.

This evidence of consistent methodology in applying the base price derived

from sales data of islands on Squam Lake is good evidence of proportionality. See Bedford Dev. Co. v. Town of Bedford, 122 N.H. 187, 189-190 (1982).

SO

ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Ellen F.D. Bennett, Taxpayer; and Chairman, Selectmen, Town of Holderness.

Dated: July 16, 1993

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Valerie B. Lanigan, Clerk