

Mary L. Daily

v.

Town of Northfield

Docket No.: 11187-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$30,000 (land only) on Map/Lot R17, 36H consisting of 57.61 acres (the Property). For the reasons stated below, the appeal for abatement is granted.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried the burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property has been on the market for 5 years listed at \$20,000-\$25,000 without success;
- (2) the lot is long and narrow, rough and rocky and bisected by a large ravine and the rear section of land (approximately 20 acres) has little to no value;

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- (3) its location on a class VI road restricts its development causing difficulty in selling;
- (4) there is no timber value on the Property;
- (5) other smaller parcels on the road including one owned by Carl and Mary Daily are fair comparisons of the Property's value; and
- (6) the fair market value as of April 1991 is between \$15,000-\$18,000.

The Town argued the assessment was proper because:

- (1) a Town-wide revaluation was done in 1989 and land values were established at that time;
- (2) because of its location on a Class VI road, its topography and because the land is vacant, the Town estimated a 1.0 acre site value at \$1,742 and valued the excess acreage at \$2,500 an acre discounted 19% for bulk and 25% for topography;
- (3) the Town permits building on Class VI roads but the owner must bring the road up to passable standards;
- (4) at the time of the revaluation, a typical 1.0 acre building lot (not on a Class VI road) was selling for \$30,000 to \$35,000;
- (5) the assessment was done properly; and
- (6) the Taxpayer has not met the burden of proof.

Board's Rulings

Based on the evidence, we find the proper assessment to be \$25,700 for an equalized value of \$20,725 ($25,700 \div 1.24$). This assessment is ordered for the following reasons:

- 1) the cost to upgrade the Class VI road to get a permit to build would be prohibitive and a buyer would take that into consideration;

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2) typical building lots were selling in the \$30,000 to \$35,000 range in 1989; the equalization ratios suggest a decline in the market of approximately 19% from 1989 to 1991 $((1.00 - 1.24) \div 1.24 = 0.193)$; it is doubtful that a buyer would choose to purchase the subject Property (in spite of its size) if lots were selling in the same price range; and

3) the inaccessibility of the backland contributes little value to the Property as a whole and the board finds its highest potential is as abutter value.

The board has calculated the assessment as follows:

Total Land Units	Unit Price	Influence Factor	Condition Factor	Other Adjs.	Total Adj.	Adjusted Unit Price	Land Value
43,560 sf	.69	025	025	-20% vacant	06	.04	1,742
21.61 ac	2,500	081	025		20	500.00	10,805
35.00 ac	2,500	060	025		15	375.00	13,125
57.61 ac					Total (rounded) 25,700		

If the taxes have been paid, the amount paid on the value in excess of \$25,700 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992, 1993 and 1994. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date

below, not the date this decision is received. RSA 541:3; Page 4
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TAX 201.37. The rehearing motion must state with specificity all of the reasons

supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Mary L. Daily, Taxpayer; and Chairman, Selectmen of Northfield.

Dated: August 3, 1995

Valerie B. Lanigan, Clerk

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ORDER

This order responds to the Town's September 1, 1995 request for clarification. Based on the Town's assertion that a town-wide update was performed for the 1993 tax year, the board amends page 3 of its decision as follows:

If the taxes have been paid, the amount paid on the value in excess of \$25,700 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

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Certification

I hereby certify a copy of the foregoing decision has been mailed this date,

postage prepaid, to Mary L. Daily, Taxpayer; and Chairman, Selectmen of Northfield.

Date: September 25, 1995

Valerie B. Lanigan, Clerk

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