

Emile J. Legere
v.
Town of Hinsdale

Docket Nos. 3809-87 and 4777-88

DECISION

These two appeals, having been consolidated for hearing, were heard as scheduled on August 11, 1989. The Taxpayer was represented by Frederick L. Sewall, Appraiser, Marvin F. Poer & Company, and Robert O. McNamara, Appraiser, Marvin F. Poer & Company. The Town was not represented.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$1,138,350 placed on his real estate located on Brattleboro Road, for the 1987 and 1988 tax years. The subject property consists of eight one-story garden-apartment buildings containing a total of 60 units on approximately 15 acres of land. The 60 units are one-bedroom units of which six are designed for handicapped access.

Neither party challenged the Department of Revenue Administration's assessment-sales ratios of 34 percent for the 1987 tax year and 30 percent for the 1988 tax year for the Town of Hinsdale. Based on those ratios the Taxpayer's assessments equate to market values of \$3,348,100 as of April 1, 1987, and \$3,794,500 as of April 1, 1988.

The Taxpayer's representatives testified the subject property was operated under FHA Section 8, HUD contracts, under which the tenants received

rent subsidies. Mr. McNamara observed that the apartments cost as much or

more to build as conventional apartments and that the electric radiant heat was included in the rent paid by the subsidized tenants.

The Taxpayer's agents testified the apartments were rented for market rents approved by HUD and that a portion of the tenants' income was the tenants' rent payment with the balance coming from HUD subsidies.

The Taxpayer's agents testified they used the income approach to valuation to determine the market value of the subject property for the two tax years under appeal. The valuation opinion prepared by the Taxpayer's representatives concluded that the fair-market value ranged from April 1, 1987, to April 1, 1988, with values of \$1,975,000 to \$2,042,000. The Taxpayer's representatives presented no opinions of depreciation of the value of the subject property or of calculations and internal rates of return over and above the static capitalized estimate of value.

The Board notes from the record the Town estimated the value by the cost method of a single apartment unit and multiplied that determined replacement value by 60 to arrive at an assessed valuation for 1979 of \$1,038,150 for the improvements on the subject property.

The Board finds the Taxpayer's approach to value takes into consideration more recent marketplace factors than the original 1979 assessment of the Town. The Board finds the net operating income determined by the Taxpayer's representatives' evaluation indicates a high operating-expense component due to management choices. After taking into consideration these factors, the Board finds the proper assessment for the 1987 and 1988 tax years for the subject property is \$816,000.

If the taxes have been paid, the amount paid on the value in excess of \$816,000 is to be refunded with interest at six percent per annum from date of payment to date of refund for each of the respective tax years, 1987 and 1988.

SO ORDERED.

November 2, 1990

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Frederick L. Sewall, Agent, and to the Chairman, Board of Selectmen, Town of Hinsdale.

November 2, 1990

Michele E. LeBrun, Clerk