

**Legere Associates
v.
City of Keene**

Docket No. 3887-87 and 4980-88

DECISION

A hearing in this appeal was held, as scheduled, on October 18, 1989. The Taxpayer was represented by John M. O'Connor, Appraiser, Marvin F. Poer & Company. The Town was represented by Laurence Shaffer, Assessor, Laura Thibodeau, Appraiser and Fred Murray, Board of Assessors.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$2,850,300 (land, \$356,300; buildings, \$2,494,000) placed on their real estate, known as Cleveland Place and located at 21 Roxbury Plaza for the 1987 and 1988 tax years. The subject property consists of a six story brick steel framed apartment building containing 75 one bedroom units, including 10 units for handicapped, sited on one acre, more or less.

The parties agreed that the assessment-sales ratios for the City of Keene for the 1987 tax year was 87% and the 1988 tax year was 94%.

The Taxpayer argued the 75 units were operated under the United States Department of Housing and Urban Development Section 8 program, which restricts the rents to 30% of the tenants' income. Mr. O'Connor described the property as elderly subsidized housing and stated the best approach to the determination of value of the subject property was the income approach. The appraiser testified the rents are essentially market rents, which are subsidized.

Mr. O'Connor testified the subject property is restricted to its current use for 20 years from the time it was built and put into operation in 1977. The appraiser stated the property was subject to a 40 year note and that the rents were determined by HUD, which thus set a government limit on the income the property could derive.

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The Taxpayer submitted a value-assessment analysis (Taxpayers Exhibit 1) which indicated the Taxpayer's opinion, with revisions to the operating income, of fair market value for 1987 was \$39,682 per unit and for 1988 was \$41,339 per unit.

The City explained their assessing program is set up into an indexing system that stratifies property in the City into 56 different categories, which are reviewed annually. Mr. Shaffer further explained that there were no market transactions in the category of the subject property in 1987, and thus there were no changes in the assessed value for the subject property. The assessor noted the property assessment was changed in 1987 from the cost basis to a market basis for determination of the proper assessment.

The Board finds the testimony and evidence presented by the Taxpayer indicates the fair market value of the subject property was in a range from \$39,000 - \$42,000 per unit for the tax years in question. The Board finds the City presented evidence/testimony indicating market values of rental residential income property in the \$41,000 a unit.

The Board finds the Taxpayer presented no conclusive evidence the subject property had a fair market value per unit, such as to warrant an abatement. The Board finds the City has instituted a stratification system, which tracks 56 different categories of property, and that the subject property was properly assessed.

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esq., Chairman

(Mr. Twigg did not sit.)
George Twigg, III, Member

Peter J. Donahue, Member

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Paul B. Franklin, Member

Date: April 27, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to John M. O'Connor, representative for Legere Associates, taxpayer; and Chairman, Board of Assessors of Keene.

Michele E. LeBrun, Clerk

Date: April 27, 1990

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