

John H. O'Hearn and Janice M. O'Hearn
v.
City of Laconia

Docket No. 4468-88

DECISION

A hearing in this appeal was held, as scheduled, on August 3, 1990. The Taxpayers were represented by one of them, John H. O'Hearn, Zoning Administrator, City of Medford, Massachusetts. The City was represented by David W. Bolton, M.M.C., Inc., and John J. Ashe, Building Official.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$134,700 (land, \$67,700; building, \$67,000) placed on their real estate located on Pendleton Beach Road, for the 1988 tax year. The subject property consists of a seasonal dwelling situated on approximately 4.26 acres of land.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 100 percent for the 1988 tax year for the City of Laconia. Based on that ratio the Taxpayers' assessment equates to a market value of \$134,700, as of April 1, 1988.

Mr. O'Hearn argued that the subject property has no legal access due to ownership of the right-of-way by the Taxpayers and two relatives. Mr. O'Hearn stated the subject property has no

frontage on a city road. The Taxpayer also stated the subject property has seasonal water supply and does not have beach rights.

Mr. Ashley testified the Taxpayer and three other landowners have exercised their building rights on the lots created by the subdivision of which the subject property was formerly a part. Mr. Ashley stated the Taxpayers would be able to transfer their interest in the right-of-way with a transfer of the subject property to another owner.

The Taxpayer reiterated the subject property enjoyed no beach or other water rights and stated his opinion of the value for the subject was \$115,000.

Mr. O'Hearn stated the Taxpayers enjoyed use of the waterfront due to their relationship to the other family owners but that these rights were not transferable with the subject property.

The Board finds the subject property does not enjoy the influence of beach rights and therefore warrants an adjustment of the influence factor. The Board finds the proper influence factor is 140, resulting in a land value of \$60,400, with an unchanged building value of \$67,700, for a total assessed value of \$128,100. The Board therefore rules the proper assessment for the 1988 tax year is \$128,100.

If the taxes have been paid, the amount paid on the value in excess of \$128,100 is to be refunded with interest at six percent per annum from date of payment to date of refund.

September 7, 1990

SO ORDERED.

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 John H. and Janice M. O'Hearn, the Taxpayers, to the Chairman, Board of Assessors, City of Laconia, and to David W. Bolton, M.M.C., Inc.

Michele E. LeBrun, Clerk

September 7, 1990