

Barton's Motel, Inc.

v.

City of Laconia

Docket No. 4515-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1988 assessments as follows:

- 1) Barton's Hotel \$1,504,400.00  
(land \$1,013,200; buildings \$491,200);
- 2) John's Corvette Service \$345,600.00  
(land \$212,500; buildings \$133,100); and
- 3) Bookstore and residence \$149,000.00  
(land \$69,700; building \$79,300)

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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved it was disproportionally taxed.

The Taxpayer did not dispute the assessments on the corvette service and the bookstore and residence. Nonetheless, since an abatement is being granted on the hotel, we have reviewed these other two assessments and we find them to be proper. See Appeal of Sunapee, 126 N.H. 214, 217 (1985) (board must

consider taxpayer's entire estate within a town to determine if disproportionality shown).

The Taxpayer argued the assessment was excessive because:

- (1) the amount of income generated by the hotel did not support the assessment;
- (2) the hotel was a seasonal business; and
- (3) a deed restriction prohibiting a restaurant adversely affected the hotel's value.

The Taxpayer's arguments were set forth in the Taxpayer's exhibit 1 ("Assessment Evaluation"). In this report, the Taxpayer's representatives, Equitax, argued the hotel was worth only \$902,890.00 based on the income approach to value.

The City argued the assessment was proper because:

- (1) the hotel has an excellent location with high visibility road frontage and substantial lake frontage; and
- (2) a comparable sales analysis supports the assessment.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded there should be no change in the assessment, stating "location is excellent and property is well maintained."

Based on the evidence, including the board's inspector's report, we find the correct assessment on the hotel should be \$1,352,420 (land \$861,220 and building \$491,200). The assessment on the residence and bookstore and the corvette shop shall not change.

Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979); see also Marshall Valuation Service, Section 1, Page 3, March (1989). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975). The evidence, including the income analysis, demonstrated the assessment was somewhat excessive. However, the evidence did not wholly support the assessment proposed by the Taxpayer, given the size of the lot, the amount of lake frontage, and the excellent location.

The board considered whether the restrictive covenant had an impact on value. However, the board finds the restrictive covenant does not warrant a reduction in the assessment, for two reasons. First, the Taxpayer's evidence indicated it had not studied or availed itself of the options available to release or terminate the restriction. Secondly, the Taxpayer did not present any evidence on the effect the covenant would have in the market.

If the taxes have been paid on the hotel property, the amount paid on the value in excess of \$1,352,400 shall be refunded with interest at six percent per annum from date paid to refund date.

February 7, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Gerry Prud'homme, the Taxpayer's representative, and to the Chairman, Board of Assessors, City of Laconia.

Michele E. LeBrun, Clerk

February 7, 1991

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