

Lawrence G. Smith and Kathleen Smith

v.

City of Laconia

Docket No. 4517-88

DECISION

The "Taxpayers appeal", pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$283,500 (land, \$205,300, buildings, \$78,200) on their Simpson Avenue real estate, consisting of a dwelling sited on a parcel of land with 60 feet of water frontage on Lake Winnepesaukee (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers failed to carry their burden and prove any disproportionality.

The Taxpayers failed to appear, but consistent with our rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board.

The Taxpayers argued by letter accompanying their application for abatement, "The assessment was excessive because 1) this is not a first class piece of land, There is a dock at the end of the street that is open for anyone, people come with chairs and sit on the grass at the end of the street; 2) There is no sandy beach; 3) The house is very old, no heat, there is a lot of wood rot under the house only half of the house has a fondation (sic.); and 4) The house next door (lot 32A on Kingsley Ave) has a right away going in front of my house (between the house and the water) we can't sit out on the grass or park on this right away because cars and small trucks are going thru (sic.) all day long.

I don't believe anyone would pay \$300,000 for this."

The City argued that the assessment was proper and that there were few sales in the area, thus sales some distance from the neighborhood were used to derive values for the property. The City also argued the property was valued with an adjustment for the right-of-way and was addressed as comparably with other properties with full access to Lake Winnepesaukee.

We find the Taxpayers failed to prove their assessment was disproportional. We also find the City supported the Property's assessment.

The Board further finds the short form warranty deed provided by the City, at the request of the Board, clearly states contrary to the Taxpayers assertion that a right-of-way connects the property to Kingsley Avenue. The Board also notes it's review inspector found no evidence of an active right-of-way on the property between the improvements and the waterfront.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue, Member

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: February 28, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Lawrence G. & Kathleen Smith, taxpayers; the Chairman, Board of Assessors of Laconia; and Scott Bartlett, Appraiser for M.M.C., Inc.

Michele E. LeBrun, Clerk

Date: February 28, 1991

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