

Edward A. Petronio and Gloria J. Petronio
v.
City of Laconia

Docket No. 4558-88

DECISION

A hearing in this appeal was held, as scheduled, on October 4, 1990. The Taxpayers were represented by Gloria J. Petronio. The Town was represented by Kathryn Temchak, City Assessor, David Bolton, M.M.C., Inc. and Scott W. Bartlett, M.M.C., Inc..

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$433,600 (land, \$334,700; buildings, \$98,900) placed on their real estate, located on Wentworth Cove Road for the 1988 tax year. The subject property consists of a one story ranch style building situated on approximately 3/4 of an acre of land with 135 feet more/less frontage on Lake Winnepesaukee.

Neither party challenged the Department of Revenue Administration's equalization ratio of 100% for the 1988 tax year for the City of Laconia. Based on that ratio the Taxpayers' assessment equates to a market value of \$433,600, as of April 1, 1988.

Mrs. Petronio read from a letter dated April 7, 1989, which was sent to the Board and made part of the record. The letter made two points that the Taxpayers felt affected the market value of the subject property. One was a culvert which discharges water on a portion of the Taxpayers land and according to the Taxpayer creates a very wet situation, which has damaged the improvements. The other factor which the Taxpayers feel affects the property's value was the urea formaldehyde foam insulation which had been installed in the dwelling which in the opinion of the Taxpayers reduces the value by approximately 20%. Mrs. Petronio stated she felt the property had a market value of \$350,000, as of April 1, 1990.

Mr. Bartlett testified that he walked the property in September of 1990 and observed that the alleged wet portion of the land appeared dry, but had a spongy characteristic, which he did not feel was a serious problem. Mr. Bartlett also stated that he checked with John Cutting at the State of New Hampshire Energy Office who, according to Mr. Bartlett, stated that the urea formaldehyde foam insulation does emit gas, usually in the spring of the year. Mr. Bartlett related that Mr. Cutting noted that the gas emission diminishes as time passes and the urea formaldehyde foam material shrinks in place. Mr. Bartlett also stated he talked with John DiStefano of the New Hampshire Association of Realtors, who related to Mr. Bartlett that he was unaware of any study or analysis showing an automatic 20% reduction in value, due to a home having this type of insulation.

Mrs. Petronio concluded that two or three realtors she talked to indicated that there would be a reduction in value, due to the presence of the urea formaldehyde foam insulation and that though that condition was repairable at a cost. The other condition of wetness was not something that could be easily remedied. Mrs. Petronio also noted the requirement of disclosure of the presence of urea formaldehyde insulation when a residence is offered for sale, especially if a real estate broker is used in the offering to the marketplace.

The Board finds the marketplace is acutely sensitive to and recognizes environmental conditions which are either present within structures or nearby.

The Board finds the subject property suffers from depreciation due to the presence of the urea formaldehyde insulation in the building and the wet condition caused by the drainage culvert on the land. The Board rules that the house should receive 15% additional depreciation due to the insulation and the land area calculation should be reduced an additional 5% for the drainage situation. The Board finds the proper assessment for the 1988 tax year is:

Land	\$320,200
Building	<u>\$ 83,500</u>
Total Assessment	\$403,700

If the taxes have been paid, the amount paid on the value in excess of \$403,700 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: October 29, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Edward A. & Gloria J. Petronio, taxpayers; Chairman, Board of Assessors of Laconia; and M.M.C., Inc..

Michele E. LeBrun, Clerk

Date: October 29, 1990

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