

Robert S. Kereage and Dorothy J. Kereage

v.

City of Laconia

Docket No. 4572-88

DECISION

Robert S. and Dorothy J. Kereage (the Taxpayers) appeal, pursuant to RSA 76:16-a, the 1988 assessment on their property known as the "Birch Knoll Motel," 867 Weirs Boulevard, Laconia, New Hampshire (the Property). The Property was assessed at \$783,500.00 (land \$352,100.00 and buildings \$431,400.00). This assessment reflects a reduction of \$111,900.00 from the original assessment of \$895,00.00 (land \$358,000.00 and buildings \$537,000.00).

The change in the assessment was made after the City of Laconia's (the City) appraisal firm, M.M.C., Inc., reexamined the Property.

The Property consists of the following:

- 1) 1.9 acres with a view of Paugus Bay, which bay leads into Lake Winnepesaukee;
- 2) access and water rights on Paugus Bay, including boat docks;
- 3) a 9-unit motel building (completely renovated 1987);
- 4) a 15-unit motel building (built 1984);
- 5) a winterized, three-bedroom house that contained the motel's office (built 1984);
- 6) a two-car garage with a finished top floor that is used a recreation room (built 1986); and
- 7) a swimming pool and various decks and porches appurtenant to the several buildings. Based on the submitted exhibits, the buildings are in new or near new condition.

A hearing was held on September 5, 1990. The Taxpayers appeared and were

represented by Gerry Prud'homme and R. William Gordon, who work for Equitax.
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City was represented by David Bolton of M.M.C., Inc. The City's assessor, Kathryn H. Temcheck, was also present. Neither party challenged the department of revenue administration's equalization ratio of 100%. For the reasons stated below, we find the Taxpayers failed to show they were taxed disproportionately, and thus, their appeal for an abatement is denied.

The Taxpayers were required to prove they paid more than their proportionate share of taxes. See, e.g., Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). In attempting to carry this burden, the Taxpayers presented evidence on the Property's value. Using only the income capitalization approach, the Taxpayers claimed the correct value as of April 1, 1988, was \$569,000.00 (no breakdown between land and buildings). The Taxpayers did not present any comparable properties.

The City challenged the Taxpayers' figure and the application of the income approach in two ways: 1) by discussing the weaknesses of the income approach, especially as applied to the Property; and 2) by presenting comparable properties, using the comparable sales method.

The City first presented evidence that the income approach is based solely on a mathematical formula and as such can be easily manipulated by changing a variable in the formula. The City supported this argument by showing that the Taxpayers' consultants had, using the income approach before the hearing, arrived at a wide range of values.

The City bolstered its argument, by presenting three comparable properties: The Lazy E; The Sundance; and The Flamingo, which were all motels on Weirs Boulevard. Photographs of the comparables along with their property assessment cards were introduced. The City discussed the differences and similarities between the comparables and the Property, which included submitting a chart comparing the per-unit assessments for the Property and the comparables.

The income approach is only one approach to value, and this board may reject the income approach and apply a different approach if supported by the evidence. Net Realty Holding Trust, 128 N.H. 795, 799-800 (1986). Based on the evidence, the board declines to use the income approach for the following reasons: 1) as shown by the City, the income approach is subject to

manipulation and inaccuracy, especially when compared with valuations arrived at by using

accurate and reliable comparables, as was the case here; 2) the income approach, as applied, did not sufficiently reflect the value of the Taxpayers having a seasonal business and year-round home in a waterfront area; 3) the income approach, as applied, did not accurately reflect the excellent condition of the Property, especially compared to the comparables; 4) the income approach, as applied, did not accurately reflect the value of the land alone; and 5) the Taxpayers failed to apply the income approach to any comparable properties.

Turning to the comparables presented by the City, we find they accurately support the City's claim that the Property was properly assessed and that the Taxpayers did not pay a disproportionate share of taxes.

For the reasons stated above:

Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue, Member

Paul B. Franklin, Acting Chairman

Ignatius MacLellan, Member

Date: September 28, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gerry Prud'Homme, representative for Robert S. & Dorothy J. Kereage, taxpayers; Chairman, Board of Assessors of Laconia; and David W. Bolton, Assessor for M.M.C., Inc.

Michele E. LeBrun, Clerk

Date: September 28, 1990

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