

Helen B. Irvine
v.
City of Laconia

Docket No. 4601-88

DECISION

The Taxpayer appeals, pursuant to RSA 76:16-a, the City's 1988 assessment of \$326,500 (land, \$253,700; buildings, \$72,800) of her property on Weirs Blvd. consisting of a dwelling on a less than 1/2 acre lot fronting on Paugus Bay. 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 she disproportionately taxed.

The Taxpayer argued: 1) that the assessment was too high due to the condition of the improvements and the property's location on a busy and noisy area of Weirs Blvd.; 2) that of the total 325 feet of frontage assessed, the ownership of approximately 85 feet was in dispute with an abutter and was in fact used by the abutter and 3) that the comparables used by the City were of properties on the other side of Paugus Bay and of properties with lots of more regular shape.

The City argued: 1) that the frontage calculation was adjusted 35 percent for the excess amount of frontage and another 30 percent for the shape of the lot, 2) that the comparables were in a better neighborhood as was recognized by the Taxpayer's lot having a 15 percent lower index factor and 3) that, notwithstanding these adjustments, the Taxpayer's assessment should be further lowered 10 percent to further reflect the lot's topography and the traffic and egress difficulties.

Based on the evidence, we find the correct assessment should be \$277,500 (land, \$215,600; and building, \$61,900). This assessment is ordered because: in addition to the adjustment recommended by the City, the Board finds that disputed area of the lot would have a chilling effect on the marketability of the entire property until a litigated or agreed resolution was obtained. Therefore the Board rules the valuation should be reduced an additional 5% beyond that recommended by the City.

If the taxes have been paid, the amount paid on the value in excess of \$277,500 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue, Member

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: January 7, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Helen B. Irvine, taxpayer; and the Chairman, Board of Assessors of Laconia.

Michele E. LeBrun, Clerk

Date: January 7, 1991

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