

Gustav A. Moeller
v.
City of Laconia

Docket No. 4635-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$91,900 (land, \$91,400; buildings, \$500) on Scenic Road 103 234 1, and the City's 1988 assessment of \$334,100 (land, \$230,500; buildings, \$103,600) on Scenic Rd. 23P 234 6 (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry his burden and prove any disproportionality.

Mr. Robert Wheeler, one of the park tenants, appeared on behalf of the Taxpayer.

The Taxpayer argued the assessment was excessive because:

- 1) the waterfront lot is not buildable (by deed restrictions);
- 2) the railroad bed (66' width) is not owned by the Taxpayer, but is owned in fee by the State of NH. Lot one (1) has 12,984 sq. ft.;
- 3) the City used a 50% condition factor on the Houle Park and a 60% condition factor on the subject park;
- 4) a pump house is on a waterfront lot servicing the Park;
- 5) a deeded easement granting park tenants the right to use beach for bathing and recreational use; and

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6) Tilton Park was given 75% park influence factor, while subject received a 100% factor.

The City presented:

a) a list of comparable properties used in the revaluation;

b) a spread sheet showing the comparables and various units of comparison, e.g., square feet and lake frontage;

c) a spread sheet showing the Property; and

d) the assessment cards for the comparables. The City also showed on a city map the location of the comparables and the Property.

The City argued the assessment was proper because:

1) it was based on sales data of comparable seasonal park properties with adequate adjustments made to reflect the Property's value;

2) the same methodology was used for these types of properties;

3) the Moeller property is superior to Houle and the best seasonal park;

4) the Taxpayer has attempted to separate the waterfront lot from the back side park (Lot 6);

5) Houle Park has 122 sites while the subject has 57;

6) the utility of the waterfront Lot 1 is not diminished by the fact that the State has a fee ownership of the railroad bed as opposed to a right of way easement as previously understood by the City;

7) buyers look at income and expense statements of investment property; and

8) the Taxpayer did not dispute the income assumptions made by the City, nor did they submit income and expense data as requested by the City.

The Board finds a synergistic relationship between the unimproved waterfront lot and the park, as a result of its access thus provided to the Lake.

The Board also notes that the Taxpayer, Mr. Moeller, in answer to a Board question, replied that he thought a valuation in the amount of \$400,000 was reasonable on April 1, 1988. The assessment for these two parcels combined is \$426,000, within 6% of the Taxpayer's estimate. The Board finds this to be

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within a reasonable range of value. Reasonable people can disagree concerning values placed on component parts. Some components may be high, others low.

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Disproportionality is determined by the total value.

The Board rules the Taxpayer failed to prove his assessment was disproportional. We also find the City supported the Property's assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gustav A. Moeller, Taxpayer; the Chairman, Board of Assessors of Laconia; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Brenda L. Tibbetts, Clerk

Date: December 4, 1991

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