

Roland P. Leahy and Margaret E. Leahy

v.

City of Laconia

Docket No. 4649-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$262,900 (land, \$237,400; buildings, \$25,500) on their real estate, consisting of a seasonal camp on a 10,500 square foot lot at Paugus Park (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried their burden and proved they were disproportionately taxed.

The Taxpayers argued the assessment was excessive because:

- 1) environmental conditions have changed over the last ten years at Paugus Park on the west shore of Paugus Bay;
- 2) two large marinas, a large yacht club, and the development of South Down Shore have greatly increased boating traffic which is funneled through Paugus Bay to the open Lake Winnepesaukee;
- 3) a sea plane operates on the bay as well as a scenic train ride which passes a railroad crossing in front of the Property;
- 4) the 1988 taxes have increased 300 percent over the 1987 tax bill for the same Property;
- 5) the camp is seasonal, is without a foundation, rests on cement posts, and is without wall insulation, a sandy beach, garage, or paved driveway;

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- 6) on the shore, there are a number of year-round homes and a potential buyer will weigh the advantages of an established residence over a camp; and
- 7) the fair market value as of April 1, 1988 is \$200,000 or under.

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 properties with adequate adjustments made to reflect the Property's value;
- 2) the same methodology was used for these types of properties;
- 3) in valuing lake front property, the most important factor is the land value;
- 4) a 5 percent adjustment was applied for the fact that the property has seasonal, lake water;
- 5) although the cabin is not insulated, has exposed beams and is on piers, it would be easy to insulate and put a foundation in; and
- 6) the existence of marinas, the scenic train, and increased boat activity affect all of the properties and the comparables show what type of consideration is given for these factors.

The Taxpayers complained about the high amount of taxes they must pay. The amount of property taxes paid by the Taxpayers was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The Board's jurisdiction is limited to the first factor i.e., the Board will decide if the Property was overassessed, resulting in the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 120 N.H. at 217. The Board, however, has no jurisdiction over the second

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factor, i.e.,

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the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (Board's jurisdiction limited to those stated in statute).

Based on the evidence, we find the correct assessment should be \$240,000.

This assessment is ordered because when comparing the Property to the City's comparables and the Taxpayers' comparables, the Board finds that the uncertainties of the costs and the inconveniences of remodeling the cabin when competing with finished, year-round homes would have some effect on the value in the market.

If the taxes have been paid, the amount paid on the value in excess of \$240,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

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

Brenda L. Tibbetts, Clerk

Date: November 26, 1991

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