

David McNamara and Nancy McNamara
v.
City of Laconia

Docket No. 4673-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 abated assessment of \$323,100 (land, \$243,800; buildings, \$79,200) on a single-family home with 60 feet of frontage on Paugus Bay (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 disproportionally taxed.

The Taxpayers argued the assessment was excessive because, among other things,

(1) the City assessed larger lots at less value per square foot than smaller lots;

(2) the Property's value is adversely affected by a nearby sewer pumping station; and

(3) an appraisal as of January 2, 1989, indicated a value of \$285,000.

The City argued the assessment was proper because:

(1) the market research indicated larger lots sell for less per square foot than smaller lots; and

(2) the sales data on the spreadsheet of comparable properties supported the assessment.

The board's inspector filed a report in which the inspector described certain problems with the Property. He concluded that "extreme caution" should be exercised if a valuation were to exceed \$300,000.

Based on the evidence, including the board's inspector's report, the City's comparables, and the Taxpayers' appraisal (after giving consideration to its January 18, 1989 date), we find the correct assessment should be \$305,000.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the City shall make this allocation in accordance with its assessing practices and with this decision.)

Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979); see also Marshall Valuation Service, Section 1, Page 3, March (1989). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975).

Our judgment includes a review of the City's comparables with the Property. Based on this review, the board concludes the Property was assessed higher than the comparable sales as follows:

- a) Cahil property--\$23,300;
- b) Scharn property--\$58,400; and
- c) FED Realty property--\$28,100.

The market would not pay this much more for the Property as compared to these comparables.

If the taxes have been paid, the amount paid on the value in excess of \$305,000 shall be refunded with interest at six percent per annum from date paid to refund date.

March 1, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to David and Nancy McNamara, the Taxpayers, and to the Chairman, Board of Assessors, City of Laconia.

March 1, 1991

Michele E. LeBrun, Clerk