

Harry H. Magdziasz and Genevieve B. Magdziasz
v.
City of Laconia

Docket No. 4741-88 and 6231-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$290,700 (land, \$209,800; buildings, \$80,900) and the 1989 assessment of \$259,800 (land, \$178,900; buildings, \$80,900) on their real estate, consisting of a seasonal cottage on a 12,665 sq. foot lot with 230 feet 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 this burden and proved they were disproportionately taxed.

The Taxpayers argued the assessment was excessive because:

- 1) the triangular shape of the lot affects its utility and value; and
- 2) the Property is accessed by a seasonal private right-of-way.

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) the City had understated the size of the docks, cabin, shed and lake frontage in its 1988 and 1989 assessments, while overstating the size of the lot; and
- 4) these corrections resulted in a net increase in the assessment to \$304,900.

Based on the evidence, we find the correct assessment should be \$281,200, (land, \$193,400 and building, \$87,800). This assessment is ordered because:

- 1) the utility of the Property is affected by the triangular shape of the lot, and the land calculation portion should be adjusted by 15% for the shape of the lot; and
- 2) the other corrections made by the City for the 1990 tax year are properly applicable for the 1988 and 1989 tax years.

For 1988, if the taxes have been paid, the amount paid on the value in excess of \$281,200 shall be refunded with interest at six percent per annum from date paid to refund date.

For 1989, if the taxes have been paid on a value less than \$281,200, the City shall issue a supplemental tax bill for the balance of assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Date: October 21, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Henry & Genevieve Magdziasz, taxpayers; the Chairman, Board of Assessors of Laconia; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Brenda L. Tibbetts, Clerk

Date: October 21, 1991

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