

**Eugene Takach, Harry Takach, Charles Takach,
Robert Takach, and David Takach
v.
City of Laconia**

Docket No. 4746-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$336,600 (land, \$67,500; buildings, \$269,100) on a single-family home with a 20,520 square-foot lot 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 disproportionally taxed.

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

- (1) the entire area of Paugus Park was overassessed;
- (2) the Property's shorefront is not all useable;
- (3) the assessment, especially given the size of the house, far exceeds the Property's market value; and
- (4) the Taxpayers' comparables support a lower assessment.

The City argued the assessment was correct because:

- (1) it was calculated consistent with other properties in Paugus Park;
- and
- (2) it is supported by the City's comparables.

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).

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.

Based on the evidence, we find the correct assessment should be \$315,000 (land \$67,500 and building \$247,500). This assessment is ordered because the City testified the Filion property was one of the most comparable properties, which was assessed at \$310,400. Accepting this, the board questions whether the market would pay \$26,000 more for the Taxpayers' Property than for the Filion property. Moreover, the board concludes the market would be cautious in valuing properties in Paugus Park in excess of \$300,000, given the neighborhood. However, the Property does have a large lot and a boathouse and would warrant a higher value than suggested by the Taxpayers.

If the taxes have been paid, the amount paid on the value in excess of \$315,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

March 6, 1991

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 Eugene Takach, et als., the Taxpayers, and to the Chairman, Board of Assessors, City of Laconia.

Michele E. LeBrun, Clerk

March 6, 1991