

Woodburne Associates

v.

City of Keene

Docket Nos. 4776-88 and 6448-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1988 and 1989 assessment of \$1,953,800 (land, \$199,500; buildings, \$1,754,300) on a 42-unit apartment complex (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved it was disproportionally taxed.

The Taxpayer argued the income approach established a fall value of \$1,667,079 or \$39,690 a unit; and this per-unit value was supported by two comparable sales. The Taxpayer also testified the total land and building costs as of 1986 were approximately \$1.7 million, but no appreciation occurred between 1986-88 or 1986-89.

The City argued the assessments were consistent with and supported by the City-wide assessment study of multi-family properties.

Based on the evidence we find the correct assessment should be \$1,825,740 for both 1988 and 1989. (The board has not allocated the value between land and building, and the City shall make this allocation in accordance with its assessing practices.) This assessment results in an equalized value for 1988 and 1989 of \$1,932,000 or \$46,000 per unit.

The Board has determined this abatement is required to bring the Property's assessment in line with assessments on other similar apartment

complexes.

Furthermore, the Taxpayer established the Property was well run with market rents and the income approach resulted in a value less than the Town's equalized value. While this evidence was considered along with the Property's 1986 cost, the board has concluded to adopt the Taxpayer's figure would fail to recognize any appreciation since 1986 and would result in the Property being proportionally underassessed.

If the taxes have been paid, the amount paid on the value in excess of \$1,825,740 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue, Member

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: April 18, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Marvin F. Poer & Company, agent for Woodburn Associates, taxpayer; and the Chairman, Board of Assessors of Keene.

Michele E. LeBrun, Clerk

Date: April 18, 1991

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