Arnold Arthur Adams and Edythe Grant Adams
v.
City of Laconia

Docket No. 4845-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of $307,600 (land, $199,700; buildings, $107,900) on their real estate, consisting of a dwelling on a 24,232 square foot lot at 404 Shore Drive (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry their burden and prove any disproportionately.

The Taxpayers argued that the assessment was excessive because:

1) comparisons of waterfront property sales and non-waterfront property sales indicate that waterfront properties are overassessed by 9 percent and non-waterfront properties are underassessed by 9 percent; causing a spread of 18 percent between the two classes of properties;
2) an appraisal performed by Barry Shea estimated the fair market value of the Property as a whole, as of February 4, 1989, to be $275,000, with the estimated site value to be $160,000;
3) land sales comparisons support appraiser Shea's estimated land value;
4) the Property is located on the dirt road section of Shore Drive, does not have city water, street lights, natural gas, no deeded beach rights or

privileges to tennis courts, boat launch or moorings, and there is a sewer easement between the house and the water;

5) the land is 7 feet from the water level and the waterfront is rocky; and

6) the August 28, 1989 Board of Assessors meeting approved a 5 percent depreciation on the garage because it has no sheathing and an additional 5 percent on the land.

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) property was appreciating at 2 percent per month in 1986, 1 percent per month in 1987 and no appreciation in 1988; and

4) the Property has waterfront access to the water so no adjustment is needed for not having association rights, which are shared rights to beaches, etc.;

5) following the Board of Assessor's meeting in 1989, the effective year built on the assessment card was lowered from 1983 to 1978 and the depreciation factor was changed from 04 to 09, and the condition factor on the land was lowered from 400 to 380; and

6) the survey submitted by the Taxpayers was not a random sampling as is the State's sales survey done every year.

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. We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and

building, must be established.

The City testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the City of Laconia. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment.

We find the Taxpayers failed to prove their assessment was disproportional. We also find the City supported the Property's assessment.

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 Arnold Arthur Adams and Edythe Grant Adams, Taxpayers; the Chairman, Board of Assessors of Laconia; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Brenda L. Tibbetts, Clerk

Date: December 5, 1991

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