

David F. Doyon and Georgette J. Doyon

v.

City of Laconia

Docket No. 4848-88

DECISION

The "Taxpayer" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$399,200 (land, \$220,900; buildings, \$178,300) on their real estate, consisting of a dwelling on a 1.21 acre lot at 684 Shore Drive (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) they purchased the Property in July of 1986 for \$308,500;
- 2) the Property has been listed at the assessment for several years and only offer of \$325,000 was received, but declined, in 1989;
- 3) the abutting property has an operating seaplane rack.

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.

Based on the evidence, we find the correct assessment should be \$379,200.

The Board finds, based on the purchase price of the Property in 1986, the City's testimony as to the appreciation rates in 1986 and 1987 and the seaplane operation on an abutting property, the assessment should be reduced 5 percent to \$379,200.

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 allows 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). We note that in making judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

If the taxes have been paid, the amount paid on the value in excess of \$379,200 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(s) Paul B. Franklin, Member

(s) Michele E. LeBrun, Member

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RE: MOTION FOR REHEARING

The City, in a letter postmarked December 5, 1991, requested a rehearing in this case because the Board found the presence of an abutting seaplane operation and the Taxpayers' sale warranted a 5 percent reduction in the assessment. The City claims that the seaplane issue was not raised by either party at the hearing. Thus, a rehearing to allow the parties to comment on that issue would "promote both justice and fairness."

The Board denies the City's request for a rehearing. A review of the record and Board's notes indicates that the Taxpayers did testify as to the

existence and use of the abutting seaplane rack. Further, the Board's order of an abatement was not exclusively due to the abutting seaplane use but also gave weight to the Taxpayers' purchase of the property in 1986 and the intervening years' appreciation rates.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I certify that copies of the within Motion have this date been mailed, postage prepaid, to David F. and Georgette J. Doyon, Taxpayers; and the Chairman, Board of Assessors of Laconia.

Brenda L. Tibbetts, Clerk

Date: December 31, 1991

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