Dorilda Sargent
v.
City of Laconia

Docket No. 4901-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1988 assessment of $23,100 (land only) on Map 79C, Lot 19, consisting of 11,009 square feet (by deed) 8,800 square feet on assessment card on White Oaks Road. 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 she was disproportionately taxed.

The Taxpayer argued the assessment was excessive because:

1) the lot contains only 1/4 acre of land (101 x 109 feet, see Book 192, Page 159, Belknap County Registry of Deeds.)
2) It is not served by municipal sewer and never will be as it is located in a small valley requiring a pump station to be built by the City to connect it to the public sewer line.
3) The soil is hardpan, non-absorbative, as found by hand-digging a shallow well in the 1930's, no gravel or sand found to 20 ft., the depth of the well (long since filled in).
4) To construct a useable above-ground leach field would require using the whole lot, thus a building could not be erected nor a mobile home set.

5)While it is too small to build upon by the zoning ordinance, it might be argued that a variance could be obtained as this was a lot of record before zoning and is therefore grandfathered, but, front, back, and side yard requirements could not be complied with physically; additionally, these being health and welfare requirements or regulations, they cannot be grandfathered or waived. Thus, the zoning requirements could not be waived or complied with.

6)Lot was recently sold to the abutter (Dec. 14, 1988) for $5,500.xx ($5,000. to seller and $500.xx to real estate agent).

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;

Based on the evidence, we find the correct assessment should be $15,000 (land only). This assessment is ordered because:

The Board finds the highest and best use of the subject lot on 4/1/88 to be something greater than supplemental or residual land. No evidence was presented to show that the 11,009 square foott lot couldn't support a storage building or similar non-habitational use. No data was submitted to show that a high intensity soil survey or a percolation test was made to show the lot was unbuildable. No denial of a buildable permit was offered by the Taxpayer. The Board rules that enough problems exist to justify lowering the assessment to $15,000.

If the taxes have been paid, the amount paid on the value in excess of $15,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

_____
George Twigg, III, Chairman

_____
Ignatius MacLellan, Esq., Member

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

_____
Brenda L. Tibbetts, Clerk

Date:

0007