

Walter T. Winward and Thomas A. Winward
v.
City of Laconia

Docket No. 4930-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessments on their real estate listed as follows:

103-105 North St. (2 family dwelling)	Land, \$ 32,700 <u>Bldg., 71,800</u> Total \$ 104,500
7-13 Baker Ave. (7 seasonal rental unit)	Land, \$ 81,000 <u>Bldg., 67,100</u> Total \$ 148,100
54 Joliet St. (2 family dwelling)	Land, \$ 28,000 <u>Bldg., 66,300</u> Total \$ 94,300
341 Mechanic St. (2 family dwelling)	Land \$ 29,400 <u>Bldg. 60,100</u> Total \$ 89,500

(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 assessments of the two-family properties were excessive because:

- 1) their two-family properties are in the low end of that property class price range;
- 2) none of the properties are owner occupied and as a result are not maintained as well as those that are;
- 3) their purchase prices of these properties in 1985 through 1987 indicate the assessments are five to fifteen thousand too high;

The Taxpayers argued the assessment on the Baker Ave. property was excessive because:

- 1) they purchased the property in March of 1988 for \$150,000;
- 2) included in the purchase was approximately \$10,000 of furnishings and an easement for 12 parking spaces on a nearby property valued at \$24,000;
- 3) the taxable real estate is only \$116,000 since the furniture is personal property and since they pay a fee towards the taxes to the owner of the parking lot.

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.

With one exception, the City argued the assessments were 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) while these properties are generally in the low end of the price range for these types of properties, the two and three family housing market was showing at least a 2% monthly increase in 1987 and early 1988;

The City recommended removing the "view" factor from the North St. Property thereby reducing the land value to \$26,800 and the total value to \$98,600.

The Board finds as follows:

Mechanic St. and Joliet St. Properties

The City's assessments are within an acceptable range as indicated by the City's comparable sales and the Taxpayers' earlier purchases of the properties.

There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether the assessment falls within a reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 119 N.H. 919.

North St. Property

The City's recommended assessment of \$98,600, arrived at by removing the view factor on the land, is reasonable and, as stated above, results in a revised assessment that is within an acceptable range.

Baker Ave. Property

The City's assessment of \$148,100 is reasonable based upon the Taxpayers' purchase of the property and parking rights by easement in March, 1988, for \$150,000 and based upon the income potential for the property as testified to by both parties. The board finds that the contributory value of the personal property to the real estate is overstated at \$10,000. While there is some value to the personal property, it is insignificant enough so as not to warrant significant adjustment to the assessment. No separate itemization of it was included in the purchase and sales agreement nor was a value documented and deducted in the calculation of the real estate transfer price.

The Taxpayers are not being doubly taxed for the parking as the effect of the Taxpayers' easement on the servient property is accounted for by a

reduction in that property's assessment, as testified to by the City. Even if

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the reduction is not adequate, that does not prove the taxpayers' case of overassessment; it may only indicate that the servient property is overassessed.

The City was proper in assessing the easement and the Baker Ave. property as one estate. The deed for the easement (Exhibit TP-3) states "(t)his easement shall become an appurtenant easement to property of the grantees known as 7 Baker Avenue...". (See RSA 75:9)

If the taxes have been paid, the amount paid on the value in excess of \$430,500 shall be refunded with interest at six percent per annum from date paid to refund date.

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 Walter T. and Thomas A. Winward; the Chairman, Board of Assessors of Laconia; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Brenda L. Tibbetts, Clerk

Date:

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