

John Victor Hilberg

v.

City of Laconia

Docket No. 4959-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1988 abated assessment of \$64,600 (land, \$124,500; buildings, \$59,900) on a cottage on Shore Drive (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry his burden and prove any disproportionality.

The Taxpayer's argument is presented in Taxpayer's exhibit 4 and in the Taxpayer's April 20, 1989 letter to the board. The thrust of Taxpayer's argument

is that a statistical analysis, comparing the assessments, the tax increase or decrease, and the sales prices on certain properties, demonstrated a systematic problem with the assessment. Specifically, the Taxpayer argued, "During a revenue-neutral general re-assessment, those whose taxes rise markedly suffer a proportional diminution in the market value of their property, while those whose taxes decline enjoy an immediate bounce in their market values." (April 20, 1989 letter.) From this statistical analysis, the Taxpayer argued, the Property's assessment should be lowered to reflect this systematic problem because the Property's taxes went up.

Despite spending significant time preparing the statistical analysis, the Taxpayer did not present any evidence on the Property itself or its fair market value on April 1, 1988. The board does not even know what the Property looks

like because the Taxpayer did not submit any photographs.

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; and
- 2) the same methodology was used for these types of properties.

The City also argued the Taxpayer's statistical analysis did not show disproportionality. Moreover, the City stated that while the Taxpayer argued the revaluation was systemically flawed, the coefficients of dispersion (COD) for 1988 (8.39) and for 1989 (8.22), which were set by the department of revenue, demonstrate the soundness of the reassessment. The City referred the board to Property Assessment Valuation, IAAO, 287-88 (1977), which states that a COD between 10-20 percent is acceptable. Here the C.O.D. was even better than 10.

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

The Taxpayer was told at the hearing that the board was limited to the question of whether the Property was improperly assessed, resulting in the Taxpayer paying a disproportionate share of taxes. Moreover, the Taxpayer was told that the board would not hear evidence to challenge the entire reassessment of the City, unless the deficiencies resulted in Taxpayer paying a disproportionate share of taxes. (A challenge to a municipal-wide reassessment can only be made by petition under RSA 71-B:16.) Despite this caveat, the Taxpayer did not present any evidence about the Property and its "full and true value." See RSA 75:1. Moreover, given the COD set by the DRA and the City's sales data, we could not conclude the Taxpayer's argument of a systemic problem required lowering the Property's assessment. Therefore, the Taxpayer failed to carry the burden of proof. See Appeal of Cannata, 129 N.H. 399, 401 (1987) (proportionality of the subject property is focus of tax appeal); Appeal of NET Realty, 128 N.H. 795,796 (1986) (taxpayer's burden in revaluation year with a

100% equalization ratio is to show the assessment exceeded the property's fair market value).

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 Mr. John Victor Hilberg, taxpayer; the Chairman, Board of Assessors of Laconia; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Brenda L. Tibbetts, Clerk

Date: November 4, 1991

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