

Roy Calderaro and Celia Calderaro

v.

City of Laconia

Docket No. 5003-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$125,000 (land, \$42,800; buildings, \$82,200) on Weeks Street, Map 92A, Block 236, Lot 2A (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 disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

- 1) it is a seasonal property with right-of-way access to the water, with a 6 to 8 foot drop to the water accessible by stairs;
- 2) the Property is located in a commercial area, approximately 200 feet from the railroad tracks, outside back door has become a public parking lot, and sounds from Weirs Beach arcades can be heard day and evening;
- 3) the assessment on the waterfront is excessive as sixteen cottages use the waterfront and they should all be taxed equally regardless of the size of the land;
- 4) the assessment for the boatslip is excessive as it was built and maintained by the owners; and
- 5) a site index of 7 is too high for the area which is not a desirable private area and the site index should be 5 or 6 which is more in line with other

comparable areas.

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) the Property is located in the Methodist Campground and has beach rights to a 50 x 200 foot lot, valued by the City at \$12,000;
- 4) the Property has a boatslip which cannot be sold separately and the City assigned an amenity value of \$25,000 which was adjusted by 25 percent because the Property has the shallowest dock space;
- 5) the Property was priced using a site index of 7 which gives an influence factor of 160 percent to reflect the privacy of the area and desirability of the community over the neighboring areas; and
- 6) based on the comparables and evidence, the assessment is fair and equitable; therefore, no adjustment should be warranted.

Based on the evidence, we find the correct assessment should be \$109,600 (land \$33,500 and building \$76,100). This assessment is ordered because:

- 1) the City's beach rights' figure of \$12,000 should be reduced by 20 percent because of the encumbrances and topographic features which negatively impact the waterfront;
- 2) the City's boatslip amenity figure of \$25,000 should be reduced by 20 percent because of the congestion created by the swimming area in close proximity to the boatslips and the fact that the boatslip cannot be separately sold has a negative influence on its contributory market value. An additional 25 percent reduction was adjusted to the Property to

reflect the fact that the

-3-

slip is in the shallowest dock space.

3) the site index of 7 should be reduced to 6 (influence factor 125 percent) indicating a land value of \$33,500 to reflect the negative impact from such influences as the railroad, the parking lot, associated noise from Weirs Beach concession stands, and traffic in the area.

If the taxes have been paid, the amount paid on the value in excess of \$109,600 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

Michele LeBrun, Member

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

Brenda L. Tibbetts, Clerk

Date:

0003