

Gabriel W. Margolis and Ellen S. Margolis

v.

City of Laconia

Docket No. 5081-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1988 assessment of \$378,400 (land, \$297,000; buildings, \$81,400) on their real estate, consisting of a dwelling on a 9,261 sq. ft. lot on Birch Haven Road (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) of an appraisal by John Claridge estimating the value at \$311,880;
- 2) of a market analysis by Pauline Eastman estimating a value, as of April 1, 1988, of \$275,000 to \$300,000;
- 3) the lot is small;
- 4) the house is an old bunkhouse;
- 5) the right-of-way access;
- 6) there is no landscaping;
- 7) there is a three-to-four foot drop to the water; and
- 8) the proximity to the railroad tracks.

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 appraisal used properties on Winnesquam, not Paugus Bay, and properties on Winnesquam are not as valuable as Paugus Bay properties.

Based on the evidence, we find the correct evidence should be \$340,000. This assessment is ordered because after reviewing the City's comparables and the assessments thereon, a reduced assessment is warranted. We find no adjustments are warranted for Taxpayer's arguments numbered 1, 2, 5, 6 and 8. However, viewing the City's comparables, and the Taxpayers' arguments and based on the board's experience, the Property is properly assessed higher than Cahill, Scharn, Fillion and FED Realty, but not as high as Schifino or Traywick. While the assessment put the Property in this range, the assessment was too close to the upper end and is more in the market of Cahill, et al. The City failed to make any adjustments for the topography of the shore front, and the City's comparable shows better shore front topography.

Moreover, the City should have made adjustments to the building, given the Taxpayers' unchallenged testimony that this was an old bunkhouse, not a home built on a home.

Unfortunately, the Taxpayers' appraisal has not aided the board. Therefore, the board is relying on its judgment and the City's comparable.

The board is not obligated or empowered to establish a fair market value of the Property. Appeal of Public Service Company of New Hampshire, 120 N.H. 830, 833 (1980). Rather, we must determine whether the assessment has resulted in the taxpayer[s] paying an unfair share of taxes. See Id. Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Bickman v. City of Manchester, 119 N.H. 919, 921

(1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975).

If the taxes have been paid, the amount paid on the value in excess of \$340,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Date: October 23, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gabriel W. & Ellen S. Margolis, taxpayers; the Chairman, Board of Assessors of Laconia; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

Brenda L. Tibbetts, Clerk

Date: October 23, 1991

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