

Rockland Park Associates

v.

Town of Epping

Docket Nos. 5127-88 and 7168-89

DECISION

The 'Taxpayer' appeals, pursuant to RSA 76:16-a, the 'Town's' 1988 and 1989 assessments of \$1,628,800 (land, \$359,700, buildings, \$1,269,100) on their real estate, consisting of an approximately 11 acre lot with 6 wood frame apartment buildings containing 36 apartments (12 one bedroom and 24 two bedroom), which were constructed in 1986 through a FMHA section 515 program (the Property).

While the appeal for the 1987 tax year (#3863-87) was consolidated for hearing purposes with the 1988 and 1989 appeals, a separate decision is issued for the 1987 tax case.

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 its burden and prove any disproportionality.

The Taxpayer argued the assessment was excessive because as summarized in Exhibit TP-2, the income approach to value indicated both market value and the proper assessed value to be \$1,450,000. The Taxpayer further argued that the land acquisition price and construction costs in 1986 of \$1,383,000 also supported the value as indicated by the income approach.

The Town argued the assessment was proper because there was evidence (Exhibit TN-B) that there was value for further development of the parcel beyond what was indicated solely by the income approach.

The Board rules that the land acquisition and construction costs are not conclusive evidence of the 1987 market value. It is public record that the land was acquired in September of 1985 and construction occurred in 1986. While not testified to specifically, it is the Board's experience and knowledge that real estate and construction costs were appreciating at a rapid rate during 1985 - 1988. This appreciation would account for a higher market value in 1988 and 1989 than the actual costs of several years prior would indicate.

Based on evidence submitted by the Town (Exhibit TN-B), the entire acreage was not needed to support the project and further development potential existed. The income approach to value, as used by the Taxpayer, did not recognize this additional potential and value.

While the Town testified that it did not specifically adjust the value for the property being subject to FMHA regulations, the Board rules that the Town's assessment and the Taxpayers value, once a value for the surplus land is accounted for, are within an acceptable range for the assessment to be reasonable.

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue, Member

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: March 6, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Marvin F. Poer & Company, representative for Rockland Park Associates, taxpayer; and the Chairman, Selectmen of Epping.

Michele E. LeBrun, Clerk

Date: March 6, 1991

0009