

Robert F. Pelletier and Marcia R. Pelletier
v.
Town of Fremont
Docket No. 5553-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$250,350 (land, \$162,450; buildings, \$87,900) on their real estate on Riverside Drive, consisting of a residence sited on approximately 8 1/2 acres of land with 200 plus feet of frontage on the Exeter River. 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 they were overassessed because the land component was overvalued by the Town when compared with other properties in the Town. The Taxpayers also argued in their application the premises had a valuation of \$200,000 and that the neighborhood was composed mostly of camp-style buildings with only one other comparable home.

The Town argued the assessment was proper because the basis of the riverfront value was based on two 1987 sales which led to the determination of

\$1,100 per foot for a standard 50-foot frontage riverfront lot. The Town also argued the Taxpayers had a potential of two building lots on Old Danville Road.

Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979); see also Marshall Valuation Service, Section 1, Page 3, March (1989). 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).

Based on the evidence, we find the correct assessment should be \$230,350 (land \$142,450 and building \$87,900). This assessment is ordered because the board was not convinced by the lengthy testimony and voluminous evidence presented by the Taxpayers' agent; however, the evidence presented by both sides indicated the riverfront homesite was not properly depreciated due to its excess frontage when compared to other properties in the neighborhood.

If the taxes have been paid, the amount paid on the value in excess of \$230,350 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

March 11, 1991

George Twigg, III, Chairman

Peter J. Donahue

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Robert F. and Marcia R. Pelletier, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Fremont.

Michele E. LeBrun, Clerk

March 11, 1991

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ORDER RE REQUEST FOR CLARIFICATION

This is a response to the "Taxpayers" April 3, 1991 letter (copy attached) requesting clarification. The request is denied as untimely under RSA 541-3 (request due 20 days from clerk's date on decision). Moreover, the Taxpayer was clearly told that while the board hopes the "Town" will consider the use of the 1988 figure for subsequent years, the Town is not bound to do so, and the board cannot review the assessment for subsequent years unless an appeal is filed.

If an appeal for a subsequent year were filed, the board's prior decision would certainly be important. However, the board never stated the decision applied to all years--the decision applies only to tax year 1988.

The order is, therefore:

Request for clarification denied.
SO ORDERED.

April 29, 1991

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Ignatius MacLellan

I certify that copies of the within order have been mailed this date, postage prepaid, to Robert F. and Marcia R. Pelletier, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Fremont.

April 29, 1991

Michele E. LeBrun, Clerk

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