

Robert K. and Kathleen M. McDonald

v.

Town of Raymond

Docket Nos.: 5919-89 and 9522-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$129,250 (land, \$21,250; buildings, \$108,000) on One Park Place, Map 6, Lot 8, consisting of a house and attached 2 car garage on a 4 acre lot (the Property). For the reasons stated below, the appeal for abatement is granted.

The Department of Revenue Administration calculated the equalization ratio for 1989 at 59% and for 1990 at 65%.

The Taxpayers have the burden of showing the assessments were 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 disproportionality.

The Taxpayers argued the assessments were excessive because:  
(1) overvaluation based upon actual construction costs and selling price as well as

- being assessed at a higher ratio than comparable properties in the area;
- (2) the state equalized ratio for 1989 was 58% which results in a revised assessment of \$98,542 (not \$129,250); and
- (3) auction sales of remaining lots without covenants in subdivision, resulted in "economic obsolescence" to the subject parcel as a result of

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abandoned covenants which were imposed on the subject Property when it was purchased December 15, 1988 for \$169,900. Homes were to have a minimum of 2,000 square feet of living space under original covenants.

The Town argued the assessments were proper because:

- (1) all comparables were 2 acre lots, no adjustment for subject 4 acre lot; and
- (2) comparables used (Dunkavich, Thomas and Montgomery) show proportionality.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment for 1989 should be \$113,280, and for 1990 it should be \$124,800. We leave it to the Town assessor to make the necessary allocation between land and buildings according to their methodology. This assessment is ordered because the Town acknowledged that \$129,000 was "probably a little high." The Town also suggested a minus \$800 adjustment for common walls in the garage and the board agrees some economic depreciation occurred to subject Property as a result of certain abandoned covenants.

If the taxes have been paid for 1989 and 1990, the amount paid on the value in excess of \$238,080 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert K. and Kathleen M. McDonald, Taxpayers; and Chairman, Selectmen of Raymond.

Dated: September 16, 1992

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Melanie J. Ekstrom, Deputy Clerk

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