

Thomas A. Winward and Walter T. Winward

v.

City of Franklin

Docket No.: 6263-89

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 assessments of \$105,100 (land, \$54,100; buildings, \$51,000) (181 Central Street) and \$79,200 (land, \$18,600; buildings, \$60,600) (186-1 West Bow Street) (the Properties). The Property at 181 Central Street consists of a commercial rental building on 6,400 square feet of land. The Property at 186-1 West Bow Street consists of a two-family frame dwelling on a 5,150 square foot lot. For the reasons stated below, the appeal for abatement is granted.

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.

Thomas A. Winward and Walter T. Winward

v. City of Franklin

Docket No.: 6263-89

Page 2

The Taxpayers argued the assessments were excessive because:

181 Central Street

- (1) they purchased the Property in March of 1986 for \$37,000; listed it for sale in 1989 and 1990 for \$67,000-\$68,000 and sold it in July of 1992 for \$45,000;
- (2) the Property is difficult to rent due to lack of adequate parking and poor accessibility;
- (3) the cellar has a wooden floor, sits on gravel and the building has settled over time; and
- (4) the City has incorrectly assessed a portion of the adjoining building to them (which was corrected for subsequent tax years, but not 1989).

186-1 West Bow Street

- (1)they purchased the Property in April of 1986 for \$29,900;
- (2)the usable square footage of the building is less than that calculated by the City;
- (3)the third floor is unheated;
- (4)the cellar has water runoff problems from the street; and
- (5)they feel the market value as of April, 1989 was \$65,000.

The City argued the assessments were proper because they were appraised consistently with other commercial and multi-family properties in the City based on sales of similar property. The City testified

Thomas A. Winward and Walter T. Winward

v. City of Franklin

Docket No.: 6263-89

Page 3

that a 5 percent adjustment was given to the West Bow Street building to account for its wet basement.

Thomas A. Winward and Walter T. Winward

v. City of Franklin

Docket No.: 6263-89

Page 4

Based on the evidence, we find the correct assessment should be:

181 Central Street: \$71,800 (land, \$39,900; building, \$31,900).

186-1 West Bow Street: \$68,500 (land, \$18,600; building, \$49,900).

These assessments are ordered because:

181 Central Street:

- (1)the City's 1991 assessment of \$86,000 shows a correction for the portion of the building not owned by the Taxpayers;
- (2)the 25 percent economic obsolescence applied to the building should also be applied to the land as it suffers the same economic influences as the building;
- (3)the resulting assessment for April 1, 1989 of \$71,800 is further generally supported by the Taxpayers' transfers and listings of the Property.

186-1 West Bow Street:

An additional 5 percent physical depreciation and 5 percent functional depreciation is warranted based on the evidence for the unheated portions, low wet basement and general condition of the Property.

If the taxes have been paid, the amount paid on the value in excess of \$71,800 for 181 Central Street and \$68,500 for 186-1 West Bow Street shall be refunded with interest at six percent per annum from date paid to refund date.

RSA 76:17-a.

Thomas A. Winward and Walter T. Winward

v. City of Franklin

Docket No.: 6263-89

Page 5

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas A. and Walter T. Winward, Taxpayers; Chairman, Board of Assessors of Franklin; and Scott Bartlett, MMC.

Dated: July 29, 1992

\_\_\_\_\_  
Valerie B. Lanigan, Clerk

0007