

Raymond and Jean Jones

v.

City of Laconia

Docket No.: 6454-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 assessment of \$211,100 (land, \$156,000; buildings, \$55,100) on Map 43, Lots 15 and 17 (consolidated into one lot), a 39,800 square foot lot with a ranch-style house (the Property). The Taxpayers own, but did not appeal, Map 48, Lot 12. The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

(1) the Property was purchased in 1987 for \$225,000 and the City is taxing the Property solely on the purchase price and not on verified market data

comparisons;

- (2) the Property is not on an accepted City street;
- (3) the dock which is on State land was included in the sales price and the Department of Transportation is demanding they remove it - depreciation for the dock is approximately \$40,000;
- (4) a mooring application was denied by the Department of Safety by letter dated May 11, 1990;
- (5) there is no legal water access and the water abutting the State property is deep and rocky;
- (6) the Taxpayers were under the impression that they purchased an additional building lot and would receive two tax bills but the City has assessed the Property as one lot and the loss of a building lot is valued at approximately \$35,000;
- (7) the house had a defective heating system which was removed; and
- (8) a list of waterfront properties on the market and properties sold indicates the subject Property, which does not have water frontage, is overassessed.

The City argued the assessment was proper because:

- (1) City zoning ordinances state that non-conforming lots in the same ownership are to be combined into one lot;
- (2) the Taxpayers were fully aware that the dock was on State owned land because the bill of sale for the dock was signed the same day as the warranty deed - and until access to the water ceases and the dock is removed, no change will be made;
- (3) the certificate of title, executed the same day as the warranty deed and bill of sale indicated that the Property was "laid out as a street which was never developed", however, the City has maintained the road for the past

Raymond and Jean Jones

v.

City of Laconia

Docket No.: 6454-89

Page 3

fifteen years;

(4) the Property is not assessed as waterfront but as water access and view;

(5) comparable sales were introduced to show the Property has been treated fairly and consistently;

(6) the Taxpayers made no attempt to time trend any MLS listings or the Lakes Region Cumulative Sold Index to the date of assessment; and

(7) the City lister inspected the Property and determined that the heating system was in place and functioning in September, 1989.

Board's Rulings

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the City supported the Property's assessment.

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 Taxpayers 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 Brickman 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).

Raymond and Jean Jones

v.

City of Laconia

Docket No.: 6454-89PT

Page 4

The City demonstrated through their comparables that there was a distinction made between waterfront lots and water access and views. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the City. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. The Taxpayers comparables were of little probative value as they failed to show what similar properties to the subject were selling for. The Taxpayers alleged in their letter of September 7, 1989 that the Department of Transportation was demanding that they remove the dock which is attached to State land. The only evidence submitted from the State had to do with a May 11, 1990 letter from Stephen P. McLoy, Department of Safety, stating that the State was unable to issue a mooring permit as they did not meet the requirements of RSA 270:61. Nowhere in the letter is there any demand that the dock be removed.

The City testified that the vacant lot was not a buildable lot and according to zoning ordinances was to be assessed with the Taxpayers' abutting lot. The board finds that the testimony is clear that the use of these two parcels is integrated (dwelling on one lot with access over the other).

Raymond and Jean Jones

v.

City of Laconia

Docket No.: 6454-89PT

Page 5

Consequently, the board rules that these lots are not so situated as to become separate estates in the context of RSA 75:9 and thus should be appraised and listed as one estate.

RSA 75:9 Separate Tracts. Whenever it shall appear to the selectmen or assessors that 2 or more tracts of land which do not adjoin or are situated so as to become separate estates have the same owner, they shall appraise and describe each tract separately and cause such appraisal and description to appear in their inventory.

The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Raymond and Jean Jones, Taxpayers; and Chairman, Board of Assessors of Laconia.

Dated: April 11, 1993

Valerie B. Lanigan, Clerk

0008