Richard J. and Mary A. Burns

v.

Town of Merrimack

Docket No.: 7795-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of $142,100 (land $51,900; buildings $90,200) on a .380-acre lot with a mobile home (the Property). The Taxpayers also own another property identified as map 3D, lot 016-W-11, assessed for $56,000, which was not appealed. 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

(1) the Taxpayers purchased the Property in January, 1989 for $106,000;

(2) the home had a $52,000 replacement cost in 1987;

(3) a 1989 appraisal estimated a $103,000 value;

(4) an April, 1990 appraisal estimated a $124,000 value;

(5) another house with a full cellar was valued less at $139,000; and

(6) the rear portion of the lot is leased land and the Taxpayers should not be assessed for it.

The Town argued the assessment was proper because:

(1) the Town thought there was some relationship between the Taxpayers and the seller thus the Taxpayers' purchase was not an arm's-length transaction;

(2) the Taxpayers' 1989 appraisal compared the Property, which includes fee simple ownership in the land, to units that are on leased sites;

(3) the leased land was assessed to the abutting manufactured-housing park, not to the Taxpayers; and

(4) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence, we find the correct assessment should be $120,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

This assessment is ordered because the board found the Taxpayers' testimony concerning the 1987 replacement cost for the building and its extra features to be credible. Therefore, the board reduced the building value to reflect the Taxpayers' estimates. Additionally, the Taxpayers' $106,000 purchase price and their two appraisals supported the Taxpayers' testimony concerning overassessment.

If the taxes have been paid, the amount paid on the value in excess of $120,000 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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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard J. and Mary A. Burns, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk