Otto and Jeannine Dobbs

v.

Town of Merrimack

Docket No.: 7802-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of: $50,000 on Map 4C, Lot 463, a vacant, 2.0-acre lot; and $161,800 (land $65,000; buildings $96,800) on a 2.-acre lot with a cape-style house (the Property). For the reasons stated below, the appeal for abatements are denied.

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 failed to carry this burden.

The Taxpayers argued the assessments were excessive because:

(1) the Property has drainage problems, and is rolling, sloping, and ledge;

(2) the Property is an antique, post-and-beam cape and should not be compared to newer homes;

(3) the two lots are really one lot;

(4) of both the lots, only one acre is usable;

(5) the well is grandfathered -- there is no septic system;

(6) there is heavy traffic passing the Property, as much as 3,000 cars per day;

(7) the Property has a drainage easement for a development further up the road, resulting in salt and sand being deposited on the Property and the easement requires maintenance to prevent the deposit from turning into swamp;

(8) the house measurements were only approximated, not actually measured;

(9) the house has many problems, i.e, faulty wiring, poor workmanship in prior renovations that affect the value of an antique cape, the furnace is rusting, and sills need replacing; and

(10) the assessed value should be $161,000.

The Town argued the assessment was proper because:

(1) the Town used 604 known sales from 1987, 1988 and 1989 and time adjusted the sales to January 1, 1989 and, using multiple-regression analysis, arrived at models to be used in assessing the properties in Town;

(2) the same methodology was used throughout the Town;

(3) the traffic was considered medium, however, the wrong box was marked on the assessment card;

(4) the building was given sufficient depreciation to address its age;

(5) if the Taxpayers went to the planning board and combined the two lots into one lot, the assessed value would reduce by $40,000; and

(6) there was a $15,000 allowance for the lot being secondary instead of primary.

Board's Rulings

We find the Taxpayers failed to prove the assessments were

disproportional. We also find the Town supported the assessments. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their 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 assessments and the level of assessments generally in the Town. 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 board also concludes the Taxpayers have two separate lots. The Taxpayers did not introduce sufficient evidence to show that one of the lots was unbuildable. Concerning the building, the board accepts the Town's conclusion that sufficient adjustments were made to reflect the Property's condition, which adjustments were based on inspections of the Property.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Otto and Jeannine Dobbs, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk