

Mark Leonard

v.

Town of Merrimack

Docket No.: 7814-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$145,100 (land \$58,100; buildings \$87,000) on a .623-acre lot with a ranch house (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property sits close to the Daniel Webster Highway and Webster Road;
- (2) the Property was purchased on January 27, 1989 for \$131,000, but was listed for \$135,500;
- (3) other properties with larger acreage and better quality were listed for \$145,000;

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(4) the Property needs many improvements, i.e., floors are badly worn and need refinishing, the plumbing leaks and has rotted some of the subflooring, the steps have collapsed and need rebuilding, garage doors have rotted, and the basement is wet;

(5) the land is sharp, sloping, swampy, and not usable;

(6) the swimming pool needs repairing and is not level; and

(7) the assessment card shows the wrong square footage and 2 full bathrooms.

The Town argued the assessment was proper because:

(1) the square footage is correct because it includes the house, basement and garage, which has a finished area in the back;

(2) the Property has been rated C- for low quality and condition of house, which is reflected in the assessed value;

(3) known sales in the same neighborhood sold for \$142,000 in April, 1988, \$137,900 in November, 1988, and \$148,000 in March, 1989;

(4) 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; and

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

Based on the evidence, we find the correct assessment should be \$135,000. 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

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ordered because the board finds an additional adjustment should be made to reflect the negative impact of topography and physical condition of the house.

If the taxes have been paid, the amount paid on the value in excess of \$135,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

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 Mark Leonard, Taxpayer; and Office of the Assessor of Merrimack.

Dated: February 11, 1993

Valerie B. Lanigan, Clerk