

Harry E. and Lorraine Y. McCalvey

v.

Town of Merrimack

Docket No.: 7816-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of: \$92,700 (land \$54,000; buildings \$38,700) on Map 5D-4, Lot 064, a 1.8-acre lot with a mobile home; and \$80,600 (land, \$46,300; buildings, \$34,300) on Map 5D-4, Lot 063, a .25-acre lot with a cottage (the Properties).

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.

The Taxpayers argued the assessments were excessive because:

- (1) the Properties are essentially landlocked, i.e., one of the Properties is dependant upon the other for access;
- (2) an appraiser inspected the Properties in November, 1990 and opines they may not have been financable under HUD standards in 1989;

- (3) the Properties abut a chemical factory;
- (4) the Properties cannot be further improved without variances from the Town because of insufficient road frontage;
- (5) the Properties have asbestos siding, bulging foundations, and poor flooring;
- (6) the Taxpayers' appraiser estimates value for the improved lots at \$60,000 and \$66,000; and
- (7) the Town's comparables do not abut a chemical factory, do not have narrow frontage, and are all newer properties.

The Town argued the assessments were proper because:

- (1) the Properties have a higher elevation than the chemical factory, however the Properties were graded as poor to address this issue;
- (2) chemicals are not produced in the factory, only stored there;
- (3) the Taxpayers' comparables were adjusted significantly, lessening the credibility of the value conclusion;
- (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: mobile homes are treated as cottages, therefore, mobile homes are not specifically addressed in the analysis; and
- (5) the same methodology was used throughout the Town.

#### Board's Rulings

Based on the evidence, we find the correct assessment should be \$75,000 for Lot 64 with the mobile home and \$70,000 for Lot 63 with the wood-frame

cottage. This assessment is ordered because the Town failed to adequately

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address: deferred maintenance; "low end" value of neighborhood; and specific impact of abutting property where chemicals are "mixed and stored."

If the taxes have been paid, the amount paid on the value in excess of \$145,000 (\$75,000 and \$70,000) 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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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Gregory E. Michael, Representative for the Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk

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