

Gregory E. Michael/Trustee of First Century Realty Trust

v.

Town of Merrimack

Docket No.: 7820-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$148,300 (land \$47,400; buildings \$100,900) on a .487-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 sold on February 3, 1989 for \$112,000 without a broker, and after credits for damages to the Property, the actual price was \$110,000;
- (2) the Property is a split-zone parcel, which directly affects the value;
- (3) the Property is abutted by 2 commercial properties;
- (4) the Property does not have 2 full baths and the basement is unfinished;

(5) one bank appraisal estimated a \$131,000 value in January 1989 and a second appraisal estimated the value at \$125,000 several months later;

(6) the assessment should be \$119,500; and

(7) the only changes made to the Property was the addition of a dishwasher, insulation, and repairs to the fireplace for an estimated cost of \$13,000.

The Town argued the assessment was proper because:

(1) the Property was inspected and any 3 fixtures is considered a bathroom;

(2) there was some structural change after the sale, which was verified with the tenant of the Property, therefore, the sale is not considered valid because of the structural change;

(3) 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

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

Board's Rulings

Based on the evidence, we find the correct assessment should be \$125,000. This assessment is ordered because the board finds the sale of the subject Property to have probative value. A full bath in an unfinished basement does not have the same contributory value as a bath on a finished floor.

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.)

If the taxes have been paid, the amount paid on the value in excess of \$125,000 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

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 Gregory E. Michael, Trustee of First Century Realty Trust, Taxpayer; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk