

Samuel D. and Marie C. Moulton

v.

Town of Merrimack

Docket No.: 7822-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$235,400 (land \$57,400; buildings \$178,000) on a 1.47-acre lot with a contemporary-cape house (the Property). 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) an April 1, 1989 appraisal report estimated a \$210,000 value;
- (2) the Property was on the market for over a year and sold in February, 1992 for \$190,000 -- the sale was for a premium price because the purchaser liked the home's amenities and the Property was located near employment; and
- (3) the Town's comparable #1, which sold for \$279,000, skewed their market valuation of the Property.

The Town argued the assessment was proper because:

- (1) the Taxpayers' \$190,000 sale in 1992, if equalized by the 1991 ratio of a 123% ($190,000 \times 1.23 = \$233,700$), supports the 1989 assessment;
- (2) 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
- (3) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$222,500. 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 finds merit in both parties arguments and appraisals, and therefore gives them equal weight in arriving at the proper assessment. It is conceivable that the Taxpayers' appraisal and the Town's appraisal set the lower and upper limit of a range of value for the Property.

The focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one

exact, precise or perfect assessment; rather, there is an acceptable range of
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values which, when adjusted to the Town's general level of assessment,
represents a reasonable measure of one's tax burden. See Wise Shoe Co. v.
Town of Exeter, 119 N.H. 700, 702 (1979).

Therefore, as in this case where equal weight has been given to each
parties argument, it is reasonable to set the value midway between both
indications of value.

If the taxes have been paid, the amount paid on the value in excess of
\$222,500 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 Samuel D. and Marie C. Moulton, Taxpayers; and Board
of Assessors of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk