

John W. and Jane S. Wagner

v.

Town of Merrimack

Docket No.: 7844-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$151,700 (land \$46,800; buildings \$104,900) on a .36-acre lot with a raised-ranch 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) the Town noted the house was economically overimproved but failed to adjust the assessment;
- (2) the neighboring properties have a -27% difference in assessments;
- (3) the assessed value should be \$140,000;
- (4) the comparables are all undersized compared to the Property; and

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(5) the Property may sell for close to the market value in another neighborhood but not in its present neighborhood.

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) there was an adjustment for economic misimprovement and had this adjustment not been made, the assessment would have been approximately \$170,000; and

(4) there are other factors that contribute to the home, i.e, completed basement, backyard pool, and additional living space.

Board's Rulings

Based on the information available to the board, the board concludes the proper assessment should be \$145,000.

This Property is located in a self-contained neighborhood, being surrounded by the river to the east, the highway to the west, vacant land to the north and older homes to the south. The Taxpayers clearly showed that the Property is an overimprovement for the neighborhood, and the property-record card also indicates this. However, the Town did not make any adjustments for the Property's overimprovement in relation to other properties in the neighborhood.

If the taxes have been paid, the amount paid on the value in excess of \$145,000 shall be refunded with interest at six percent per annum from date

paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John W. and Jane S. Wagner, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk

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