

Michael R. and Janet Labore

v.

Town of Merrimack

Docket No.: 7859-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$186,400 (land \$62,500; buildings \$123,900) on a 2.496-acre lot with a colonial-style 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's comparables were not really comparable since the oldest home was only 16 years old when the Property was built in the 1700's;
- (2) the Property was inherited/purchased in 1988, and an appraisal at that time estimated a \$150,000 value;
- (3) the Taxpayers had to get a variance from the Town to purchase the Property due to the lack of frontage;

- (4) the Town did not inspect the basement, which is only crawl space, nor did the Town inspect the attic, which is not usable;
- (5) there are numerous errors on the card, i.e., town water, two bathrooms, and two attics;
- (6) the electrical system is antiquated and the floors are bowed; and
- (7) there is a driveway easement across the Property.

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; and
- (3) proper adjustments were made to reflect the Taxpayers' concerns.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$161,620 (land \$62,500; building \$99,120).

The board reviewed the evidence, especially the Taxpayers' testimony concerning the Property's condition. The board also reviewed the Town's comparables and agreed with the Taxpayers that they were not good comparables.

The subject is an antiquated house with minimal site work and landscaping. The Town's comparables were newer homes with less physical depreciation and much nicer site work and landscaping. Even the Town's computer printout indicated there was significant "distance" between the Property and the comparables. Additionally, the Taxpayers raised specific questions about how

the building assessment was arrived at, but the Town was unable to answer the

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questions to the board's satisfaction. Given all of the data available to the board, the board has depreciated the building by an additional -20%.

If the taxes have been paid, the amount paid on the value in excess of \$161,620 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

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 Michael R. and Janet Labore, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk

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