

William D. and Mary T. Reen

v.

Town of Merrimack

Docket No.: 7864-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$210,600 (land \$59,600; buildings \$151,000) on a .924-acre lot with a garrison 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 attached garage and its second-floor family room were added after the main house was built, and because of the existing floor layout, cannot be accessed directly from the main house;
- (2) the Property was purchased in September, 1986 for \$166,900 and the sale price reflected the design deficiency;

(3) the rear yard drops four feet within ten feet of the house and has storm drainage through it, thus the rear of the lot is not useful except for privacy;

(4) sales of similar properties in the neighborhood without the layout problems sold for more than the Taxpayers' Property, yet are assessed generally for less than the Taxpayers;

(5) the Town's comparables all sold for more than the Taxpayers, have more marketable and useful square footage, and are generally on better lots; and

(6) based upon the above factors, the Property should be valued at approximately \$180,000.

The Town argued the assessment was proper because:

(1) the Town made an adjustment of \$3,300 for the layout problems;

(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 \$180,000.

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.)

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This assessment is ordered because: (1) the Town's market approach in arriving at the assessment did not account or adjust for the layout design problems documented by the Taxpayers; and (2) the Taxpayers' comparable-sales information was more on point than the Town's.

If the taxes have been paid, the amount paid on the value in excess of \$180,000 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 William D. and Mary T. Reen, Taxpayers; and Board of Assessors of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk

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