

Walter A. and Laura F. Bushway

v.

City of Claremont

Docket No.: 10127-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$87,000 (land \$18,900; buildings \$68,100) on a .78-acre lot with a house (the Property). For the reasons stated below, the appeal for abatement is denied.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) they had purchased the Property in 1986 for \$62,900, at the peak of the market, and have made improvements totaling \$7,920 since the sale;
- (2) the City's assessment exceeds the total cost for the Property of \$70,820 by 24%;
- (3) the market from 1988 to 1991 has decreased by 40%; and
- (4) the City's comparables are drawn from a better neighborhood.

Page 2

Bushway v. City of Claremont

Docket No.: 10127-90PT

The City argued the assessment was proper because:

- (1) eleven comparables that sold between 1988 and 1990 indicate a range per square foot of living area between \$45.80 and \$67.41;
- (2) the Taxpayers' Property is assessed at \$50.12 per square foot which correlates to the six sales most comparable in size and age to the Taxpayers';
- (3) the 1987 sale and 1989 resale of one of the comparables, map 22 lot 5, indicates the market was appreciating during that time period;
- (4) the market was appreciating annually in 1986 and 1987 at approximately 18%, 1988 at 12%, 1989 at 6% and 0% in 1990; and
- (5) the Property is one of the better dwellings in the neighborhood and has been well maintained.

The board's inspector, reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment was proper. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the City supported the Property's assessment.

Page 3

Bushway v. City of Claremont

Docket No.: 10127-90PT

The Taxpayers' purchase of the Property in 1986 for \$62,900 and their subsequent improvements of \$7,920 provides some evidence of market value for that earlier period. However, to relate it to the year under appeal, 1990, evidence of the change in market must be considered. The Taxpayers submitted a copy of a newspaper clipping which indicated that property values have fallen state wide from 1988 to 1991 at 40%. However, the board does not find this conclusive evidence as it is a general statement of a different time period than being considered and does not apply specifically to the market conditions in Claremont. The board finds the City's evidence that the market was appreciating annually in 1986 and 1987 at 18%, in 1988 at 12% and in 1989 at 6% is generally supported by reviewing the change in the equalization ratios for the City of Claremont from 1986 to 1989. The ratio during that time period dropped from 44% in 1986 to 26% in 1989 indicating a general appreciation during that time of 41% ($18\% \div 44\% = 41\%$). Applying either the City's appreciation rates or the rate indicated by the change in ratio to the 1986 sale price supports the City's assessment.

Further, the City testified that it did adjust for the fact that the Taxpayers' Property is one of the better ones in a below average neighborhood.

Lastly, the Taxpayers did not present any credible evidence of the Property's 1990 fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's 1990 fair market value by presenting sales of comparable properties closer to the time frame under appeal. This value would then have been compared to the Property's assessment and the level

Page 4

Bushway v. City of Claremont

Docket No.: 10127-90PT

of assessments generally in the City. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

Page 5

Bushway v. City of Claremont

Docket No.: 10127-90PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Walter A. and Laura F. Bushway, Taxpayers; and Office of the Assessor, City of Claremont.

Dated: November 22, 1993

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Valerie B. Lanigan, Clerk