

Joseph and Barbara Gabriele  
and Klaus and Lili Babiarz

v.

City of Concord

Docket No.: 10167-90

DECISION

Joseph and Barbara Gabriele own one-half interest in the following properties and Klaus and Lili Babiarz own the other one-half interest. Collectively, the "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1990 assessments of:

\$14,800 (\$7,400 per one-half interest) on Lot 16/16A, a vacant, 21.20-acre lot;

\$35,000 (\$17,500 per one-half interest) on Lot 19/19A, a vacant, 50-acre lot; and

\$38,400 (\$19,200 per one-half interest) on Lot 21/21A, a vacant, 22.20-acre lot (the Properties).

For the reasons stated below, the appeal for abatements is denied.

The Taxpayers have the burden of showing the assessments were 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 carry their burden.

Gabriele v. City of Concord

Docket No.: 10167-90PT

The Taxpayers agreed at the hearing that the assessments for lots 16 and 21 were proper, but that they still wished to appeal the assessment on lot 19.

The Taxpayers argued the assessment on lot 19 was excessive because:

- (1) the lot can only be accessed via the other two lots because Weir Road along the easterly side of lot 19 has been discontinued and the abutter, Mr. Reno, has prohibited access to the lot; and
- (2) an opinion of value from a realtor, Ken Jordan, estimated the value of lot 19 at \$12,500 to \$15,000 based on its land-locked nature.

The City argued the assessments were proper because:

- (1) the Taxpayers had estimated, at the time of the appeal to the board, values for the three lots totalling \$92,500; the assessments were adjusted by the City after review and consideration of the Taxpayers' contentions to \$88,200 in total;
- (2) the three lots were assessed by the City as if they were one estate and no value was attributed to the Weir Rd. frontage; and
- (3) the Taxpayers' realtor's opinion of value total of \$67,800 if equalized by an estimated 1993 ratio of 124% indicates a market value of \$84,100.

#### Board's Rulings

We find the Taxpayers failed to prove the Properties' assessments were disproportional. We also find the City supported the Properties' assessments.

The Taxpayers presented no evidence, other than the 1993 realtor's opinion of value, that the adjusted assessments for the three lots were not reasonable estimates of market value. The board was unable to rely upon the

Page 3

Gabriele v. City of Concord

Docket No.: 10167-90PT

opinion of value because the opinion did not include the basis for the value conclusion. Specifically, the opinion did not indicate what sales were used or what adjustments were made to the sales to arrive at the value conclusion.

Without such information, the board and the municipality are unable to review the soundness of the value conclusions. Further, even if the opinion is accepted, equalizing the 1993 value estimate back to the 1990 level of assessment, supports the assessment.

The board finds that the City correctly assessed the three lots as if they were one estate. The City gave quantity adjustments based on the total acreage and did not assign any value for the discontinued portion of Weir Rd.

Because the City did not add any value for the Weir Rd. frontage (in essence, appraised the land as if it was just contiguous rear land to lot 21), the board need not address the issue of the legal status of Weir Rd.

Lastly, both the Taxpayers' letter submitted to the board with their appeal and their testimony as to Mr. Reno's offer of \$85,000 to \$95,000 for the three parcels support the finding that the entire assessment of the Taxpayers' total estate is reasonable.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

---

George Twigg, III, Chairman

---

Paul B. Franklin, Member

CERTIFICATION

Page 4

Gabriele v. City of Concord

Docket No.: 10167-90PT

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph and Barbara Gabriele and Klaus and Lili Babiarez, Taxpayers; and Chairman, Board of Assessors, City of Concord.

Dated: January 11, 1994

0008

---

Valerie B. Lanigan, Clerk