

Walter L. and Dorothy S. Kirsch

v.

City of Concord

Docket No.: 10339-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$155,900 (land \$63,600; buildings \$92,300) on an 8,395, square-foot 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 meet this burden.

The Taxpayers argued the assessment was excessive because:

- (1) the Property is located across from a school and has heavy traffic going by;
- (2) the Property was listed as having a patio but none exists;
- (3) the built-in vacuum system and the attic finish have little utility or value;

Page 2

Kirsch v. City of Concord

Docket No.: 10339-90PT

(4) better houses listed for sale in 1992 are asking less than the Taxpayers' assessment;

(5) siding and hot water heating pipes are covered with asbestos; and

(6) the slate roof is expensive to repair and should be replaced.

The City argued the assessment was proper because:

(1) the City submitted an appraisal that estimated the market value as of April 1990 at \$155,700 which supports the assessment of \$155,900;

(2) comparable sales were used (264 South St., 62 Beacon St. and 68 Broadway);

(3) a negative 1/2% per month time adjustment was made to comparable sales;

(4) three comparables had no fireplaces and were adjusted +\$3,500 each;

(5) two comparables without garages were adjusted -\$3,000 and -\$6,000 for one and two car units respectively; and

(6) gross living area adjusted equal to \$20 per square foot for the first and second floor.

#### Board's Rulings

The City testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the City. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayers argued the assessment should be reduced because the market for the property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue

Page 3

Kirsch v. City of Concord

Docket No.: 10339-90PT

is proportionality. The Taxpayers need to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the City as a whole to prove their property is disproportionately assessed.

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the City supported the Property's assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Walter L. and Dorothy S. Kirsch, Taxpayers; and Chairman, Board of Assessors, City of Concord.

Dated: January 11, 1994

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Valerie B. Lanigan, Clerk