

Wayne F. Hall

v.

City of Concord

Docket No.: 10344-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$134,300 (land \$68,500; buildings \$65,800) on an 8.03-acre lot with a house (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried his burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the wetland, ledge and location of the existing improvements would preclude any significant subdivision and further development of the Property; and
- (2) the Property was appraised in 1993 for \$120,000 and has not changed much in value since 1990 because it is improved with old buildings that don't tend to fluctuate in value much.

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The City argued the assessment was proper because:

- (1) the Taxpayers' 1993 appraisal, if adjusted by an estimated 1993 ratio of 125% ($\$120,000 \times 125\% = \$150,000$), supports the assessment; and
- (2) the Property, notwithstanding the ledge and wet areas, has some subdivision potential.

Board's Rulings

Based on the evidence, the board finds the proper assessment to be \$125,300 (land, \$59,500; buildings, \$65,800). This assessment is ordered because:

- 1) the Property does not have the potential for the subdivision of two additional lots as assessed by the City because of the soil conditions and the location of the house and septic system;
- 2) the \$18,000 attributed to this subdivision potential should be halved to reflect the limited subdivision potential of one additional (rather than two) lot;
- 3) the soil conditions of the lot and their effect on the subdivision potential of the Property are factors that affect market value and should be considered in the assessment (See Paras v. City of Portsmouth, 115 N.H. 63, (1975)); and
- 4) the calculation of equalizing the Taxpayer's 1993 appraisal does not necessarily establish the 1990 assessment was proper where there is evidence of the City's assumptions and methodology (the potential for two additional lots) were incorrectly based.

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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 Wayne F. Hall, Taxpayer; and Chairman, Board of Assessors, City of Concord.

Dated: January 4, 1993

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Valerie B. Lanigan, Clerk