

Albert Kruger

v.

City of Concord

Docket No.: 10541-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$145,800 (land \$54,000; buildings \$91,800) on a 4.69-acre lot with a single-family house (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the land is assessed disproportionately when compared to neighbors;
- (2) the north and back side of the land is part wetland and part gravel pit;
- (3) the land could only be subdivided into two lots; and
- (4) the City is comparing the Property to properties with city water, sewer, storm drains and sidewalks.

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The City argued the assessment was proper because:

- (1) the Taxpayers comparables differ in that the comparables cannot be subdivided and one property is in current use;
- (2) the Property is subdividable and there is ample room for a second lot;
- (3) three comparable sales of properties of the same vintage were utilized to arrive at a value for the house and 40,000 square feet of land with a \$10,000 adjustment for clean-up, leveling and seeding of the area;
- (4) three comparable land sales were utilized in arriving at an excess lot value; and
- (5) the assessment is fair and equitable.

Board's Rulings

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

The Taxpayer's arguments focused on the disproportional assessment of their lot compared to other lots in the general neighborhood.

The board does find that because the lot was used as a stump dump and gravel pit for many years, it does have distinct features from other properties in the area. However, the Taxpayer was unable to prove that such factors had not been adequately considered and addressed by the City in its assessed value and in its appraisal report submitted at the hearing.

The board finds that the Taxpayer's Property does have the potential for subdivision. The assessed value attributable to the second lot by the City is

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approximately \$14,000 to \$16,000. Such assessed value is not unreasonable, despite the ungraded gravel pit area of the Property. The comparables submitted by the Taxpayer were generally lots that did not have any subdivision potential due to the size and frontage of the lot or the development pattern on the lot; therefore the Taxpayer's comparables do not show a disproportionate assessment.

The City's appraisal report submitted at the hearing was arrived at by the market approach using three comparable properties that sold within a year prior to the assessment date. The board finds the City's adjustments, albeit subjective and of a large amount, are reasonable and result in a proportionately assessed value.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Claire M. Kruger, Agent for Albert Kruger, Taxpayer; and Chairman, Board of Assessors, City of Concord.

Dated:

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Valerie B. Lanigan, Clerk