

Carole and Bruce Krassner

v.

City of Dover

Docket No.: 8398-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$151,200 (land, \$13,600; buildings, \$137,600) on their real estate at 36 Isaac Lucas Circle, consisting of a dwelling with attached garage on a .73 acre lot (the Property). The Taxpayers and the City waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is granted.

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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) an appraisal done on September 1, 1989 for mortgage purposes estimated the market value of the Property at \$292,000;

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- (2) an undated market analysis by a realtor recommending a value range of \$250,000 to \$270,000; and
- (3) it is overassessed compared to property at 24 Isaac Lucas Circle.

The City argued the assessment was proper because:

- (1) an appraisal, done by the City, using the cost and market approaches to value estimates its April 1, 1990 value at \$298,600;
- (2) the City's equalized value indication (\$151,200 divided by .46) of \$328,695 is within a 6% average absolute deviation from the City's ratio of 46; and
- (3) the range of value as indicated by the 6% deviation is \$290,800 to \$378,000 and thus the Taxpayer is not assessed at a level higher than that which is generally prevailing in the City.

Based on the evidence, we find the correct assessment should be \$136,100. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the City shall make this allocation in accordance with its assessing practices.)

The board has determined that the Property is approximately 10% overassessed. This decision is based upon the general evidence of market

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value submitted by both parties, and the City's 1989 ratio of 46%. The City's apparent reliance upon a range of 6% around the ratio is not substantiated by a stratification of sales supporting this range and that the Taxpayers'

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Property would likely fall in the upper part of the range. Further, the City's cost approach overstates the market value by \$13,000 due to errors in the size adjustment to the living area square footage, and further the City's market approach uses a +1/2% per month time adjustment up to April 1, 1990 while the 1988-1990 ratio indicates a -1/2% per month. The City provided no evidence that this property type was appreciating while, as a whole, real estate in Dover was declining in value.

If the taxes have been paid, the amount paid on the value in excess of \$136,100 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Carole and Bruce Krassner, taxpayers; and Chairman, Board of Assessors of Dover.

Dated: July 15, 1992

Melanie J. Ekstrom, Deputy Clerk

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