

Charles G. Leutzinger

v.

City of Keene

Docket No.: 8410-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 abated assessment of \$197,200 (land, \$43,400; building, \$153,800) on a single-family home with a 1.75-acre lot (the Property). The Taxpayer 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 Taxpayer has 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(3); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- 1) an April 1, 1990 appraisal indicated a fair market value of \$166,000;
- 2) the Property is not serviced by City water or sewer; and

3) he only received \$624.00 a month for rent.

The City argued the abated assessment was proper because:

- 1) a comparative sales analysis indicated a \$181,000 value without making any adjustment for the Property's superior location;
- 2) the rent earned by the Taxpayer is below market; and
- 3) the lack of City water and sewer is of no consequence, since those services are based on a user's fee.

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). Based on the evidence, we find the correct assessment should be \$187,350.

This assessment is ordered because the City's adjustments to the comparables indicated a \$181,000 value before an adjustment for the Property's superior location. Thus, adding \$10,000 for the superior location to the \$181,000 indicates a full value of \$191,000. While the value could be held to be within an acceptable range of the equalized assessment, the assessment on two of the comparables indicates those two comparables assessments were right on the equalization ratio, indicating some adjustment should be made to the Property's assessment. We also note the City's tight coefficient of dispersion indicates properties are generally well assessed. Therefore, the board has made an additional 5% reduction to bring the Property's assessment in line with others and because \$197,200 assessment was somewhat too high given the board's experience and opinion.

As stated above, the focus of our inquiry is proportionality,

requiring a review of the assessment to determine whether the Property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether this assessment falls within a reasonable range, from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979), Brickman v. City of Manchester, 119 N.H. 919.

Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment.

If the taxes have been paid, the amount paid on the value in excess of \$187,350 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

I certify that copies of the foregoing decision has been mailed this date, postage prepaid, to Charles G. Leutzinger, Taxpayer and Chairman, Keene Board of Assessors.

Dated: October 31, 1991

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Melanie J. Ekstrom, Deputy Clerk