

Roland and Linda Bergeron

v.

City of Portsmouth

Docket No.: 9767-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$125,700 (land, \$25,100; building, \$100,600) on their real estate identified as Map R21, Lot 002, consisting of a dwelling and attached garage on a 3.04 acre lot at 330-A Jones Ave (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 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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) the average building square foot assessment of light comparables, all in a generally better neighborhood, is less than the Taxpayers;
- (2) the average sale price of six comparables in a better neighborhood that sold in 1989 and 1990 was \$214,667, significantly less than the Taxpayers' equalized value of \$267,447 based on the City's 1989 47 percent ratio;
- (3) the Taxpayers' buildings are over built for the neighborhood as indicated by the average building value on Jones Ave being only \$40,924;

(4) the commercial activities on Jones Ave and the "Jones Ave Dump" should be considered in the assessment;

(5) the 350 foot long access to the Property, while owned by the City, is not maintained by the City but by the taxpayers; and

(6) areas in a bathroom and family room are unfinished.

The City argued the assessment was proper because:

(1) the Taxpayers' analyses are irrelevant as they are averages of various portions of the building values without any adjustments for differences;

(2) the house has 4256 sq. feet of living area, more than twice the size of any other house on Jones Ave and is one of the newest;

(3) adjustments to the land value were given for the unmaintained access and adjustments given

(4)

(5)

(6)

Based on the evidence, we find the correct assessment should be \$

(land \$ and building \$). This assessment is ordered because:

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

We find the Taxpayer[s] failed to prove the Property's assessment was disproportional. [We also find the [] supported the Property's

assessment.]

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

Board Members - GT____; PF____; IM____; ML____

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to

Dated:

Melanie J. Ekstrom, Deputy Clerk