

**Rachel and Peter Maccini, III**

**v.**

**City of Nashua**

**Docket No.: 18581-00PT**

**DECISION**

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “City’s” 2000 assessment of \$126,600 (land \$69,000; buildings \$57,600) on a 1.71-acre lot with a single-family home located at 156 Tinker Road (the “Property”). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying a disproportionate share of taxes. See RSA 76:16-a; TAX 201.27(f); TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show the Property's assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayers failed to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the Property was worth considerably less than the \$102,000 purchase price recorded in 1997 due to extensive demolition and renovation work undertaken by the Taxpayers;
- (2) the Property was not livable due to the nature of the work being performed; and
- (3) the value of the Property should be compared to other two-and-three bedroom homes in the City, not the “trophy houses” built in a new subdivision in the neighborhood (Tinker Road).

The City argued the assessment was proper because:

- (1) several inspections were performed to determine the effects of renovation on the value of the Property;
- (2) substantial appreciation in the real estate market has occurred since the Taxpayers purchased the Property; and
- (3) the Taxpayers invested both money and “sweat equity” to improve the condition of the house.

### **Board’s Rulings**

The board finds the Taxpayers failed to prove the Property was disproportionately assessed.

It is indeed difficult to arrive at a definitive value for the Property given its ongoing state of renovations as of April 1, 2000, and the generally appreciating real estate market in Nashua, specifically, in the Taxpayers’ neighborhood. However, for the reasons that follow, the board finds the City reasonably accounted for both the demolition and renovations that were ongoing in 2000 in response to the abatement application and after inspection of the Property.

According to the Taxpayers’ testimony and some of the photographs submitted, the three-

bedroom ranch was undergoing significant renovations and modification as of April 1, 2000 to greatly expand the living area and add a second story to a portion of the dwelling. The Taxpayers argued these renovations, which included removing and/or moving various components of the building, reduced the value of the Property below the Taxpayers' 1997 purchase price of \$101,500. We disagree. It is clear from the evidence the Property is in a neighborhood which is transitioning from homes such as the Property (before renovation) to larger and more expensive dwellings. This evidence, along with the City's testimony regarding the appreciating real estate market in the City of Nashua, indicates that, despite the ongoing demolition and renovations to the Property, property values overall and, specifically, in the neighborhood, were appreciating. Just as the Taxpayers recognized the Property had potential to be more expansive, the board finds the general market would also recognize the dwelling's potential for expansion and the need for extensive renovations.

The board reviewed the Property's several assessment-record cards submitted by the Taxpayers with their appeal which span the time period from 1997 to 2001 (both pre- and post-abatement). The board notes the land assessment increased from \$47,000 in 1997 to \$69,000 in 2000. (The 1997 and 2000 equalization ratios were .99 and .97, respectively; thus, in essence, assessed values were nearly at market value and it is possible to compare the assessed values meaningfully.) This increase in land value indicates that overall real estate values in the general neighborhood were appreciating as the City testified. Further, during that time period the City recognized the changes to the dwelling by increasing the depreciation from .87 good (-13% pre-abatement in 1997) to .58 good (-42% post-abatement) and then to .50 for tax year 2000. This evidence supports the City's contention that it did recognize the changing nature of the dwelling

during that time period due to deferred maintenance and the Taxpayers' active demolition and renovations in preparation for the anticipated addition.

Does the value resulting from the City's 50% depreciation of the dwelling in 2000 provide an absolute estimate of the improvement's contributory value to Property's overall market value? No. However, the board finds it is a reasonable estimate based on the evidence submitted during the hearing. The board finds the Taxpayers' arguments that the Property was worth less than what they paid for it in 1997 is contrary to the evidence regarding the appreciation in the real estate market in general, and the Taxpayers' neighborhood specifically, and the Taxpayers' realization of the dwelling's potential for further utilization and a more expansive improvement in keeping with the transitioning neighborhood.

The Taxpayers did not argue that any of the demolition and renovation work was counter-productive or would decrease the value of the Property in a finished state. The board finds the market would recognize that even incomplete renovations, if positive in nature, add value. Indeed, this is the principle underlying the valuation of houses and other structures that are only partially complete as of the assessment date.

In short, while the Property was likely not habitable as of April 1, 2000, the Taxpayers' labor and material cost and the appreciating market had increased the overall value of the Property above the purchase price in 1997, and the City's assessed value is a reasonable estimate of the Taxpayers' proportionate share of the tax burden.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on

the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Michele E. LeBrun, Member

Albert F. Shamash, Esq., Member

**Certification**

I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to: Rachel and Peter Maccini, III, 156 Tinker Road, Nashua, New Hampshire, 03063, Taxpayers; David R. Connell, Esq., Nashua Office of Corporate Counsel, 229 Main Street, Box 2019, Nashua, New Hampshire, 03061; and Chairman, Board of Assessors, City of Nashua, Post Office Box 2019, Nashua, New Hampshire, 03060.

Date: January 31, 2003

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Anne M. Bourque, Deputy Clerk