

Gary R. Letourneau and Susan M. Letourneau
v.
Town of Freedom

Docket No. 3831-87

Joseph E. Trodella
v.
Town of Freedom

Docket No. 3846-87

Diane Massiglia and Francis Massiglia
v.
Town of Freedom

Docket No. 3814-87

Neil L. Buckley and Lillian M. Buckley
v.
Town of Freedom

Docket No. 3892-87

John J. Hargedon and Barbara A. Hargedon
v.
Town of Freedom

Docket No. 3909-87

AMENDED DECISION

These five appeals, having been consolidated for hearing, were heard, as scheduled on January 18, 1989. The Taxpayers were represented by themselves

and

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Randy Lyman, General Manager of the Freedom Village Condominium Association. The Town was not represented.

The Taxpayers are appealing, pursuant to RSA 76:16-a, assessments ranging from \$8,600 - \$10,500 placed on their real estate, located at Freedom Village Condominiums for the 1987 tax year. The five subject properties appealed are condominium units but not the land supporting them, located in a condominium property situated at Berry Bay on Lake Ossipee.

None of the parties challenged the Department of Revenue Administrations equalization ratio of five percent for the 1987 tax year for the Town of Freedom. Based on that ratio the Taxpayers assessments equate to market values ranging from \$172,000 - \$210,000.

The Taxpayers argued there were only two condominium complexes in the Town of Freedom. The Taxpayers further argued the subject condominium units were located at the larger of the two complexes which has 60 units out of a planned 75 units built and owned by individual unit owners. The Taxpayers also argued one 75th of interest in all of the land of the condominium was purchased by each unit owner.

Randy Lyman testified she was severely limited by the Chairman, Board of Selectmen, Chester Jones, having access to the property assessment records of both the subject properties of this hearing and other properties in the Town of Freedom. Mrs. Lyman also testified there was not time to go through the process of using right-to-know law to obtain this public information in preparation for the hearing. Mrs. Lyman also testified there were two lists maintained of taxable property in the Town, one for residence and one for non-residence.

Mrs. Lyman testified the Town of Freedom was taxing the developer, Freedom Condominium Development Corporation, for all of the land, even though the deeds clearly indicate each owner of a condominium unit has taken title to one 75th interest in the land.

Mrs. Lyman testified that Chairman Chester Jones does all of the assessments in the Town and had established a practice of assessing condominium

units sold at 10 percent of the sales price regardless of the level of the

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equalization ratio at the time of sale. Mrs. Lyman further testified it was her understanding that 1953 was the last time the Town of Freedom had had all taxable properties in the Town revalued.

Under questioning from the Board, Mrs. Lyman testified there were no assessment cards or records maintained for each of the taxable properties in the Town, but that the records were maintained on 4' x 6' cards listing only the name of the owner and the assessment and the address of the property and the address of the owner and a map and lot number.

Mrs. Lyman and other Taxpayers at the hearing testified there was no discernable difference among the units which would indicate or bring forth different market or assessment values. Mrs. Lyman also testified the Town had passed a warrant article and appropriated \$175,000 for a revaluation and reassessment of the Town. Mrs. Lyman further testified Mr. Jones indicated that the soonest an appraisal could be made of the Town would be 1995.

Mrs. Lyman and other Taxpayers at the hearing testified sales prices in 1986 were in the range of \$90-100,000 with the higher sales prices caused by optional additions, such as special refrigerators or stoves added to the basic condominium unit. The Taxpayer testified there were no special notations of personal properties on the deeds presented at the hearing.

The report of the Board's review appraiser stating, "The buildings are of common grade construction and based upon the general sales data within this complex it is my opinion that the average 1987 market value would be in the range of \$90,000 per unit. The ratio of assessments to market in Freedom, N.H., for the year 1987, was estimated at approximately five percent with a C.O.D. estimate of 72.32 $\$90,000$ average unit market x .05 percent = $\$4,500.00$ average assessment per unit." was read to the Taxpayers at the hearing. Mrs. Lyman testified that that conclusion of the Board's review appraiser properly reflected market values.

The Board finds the evidence submitted by the Taxpayers and the report of its review appraiser support the conclusion of an average market value for each condominium unit in Freedom Village Condominium of \$90,000. The Board further

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finds the equalization ratio for the Town of Freedom for the 1987 tax year was five percent. The Board also finds the Town of Freedom assessed the taxes for the land in all of the 75 condominium units to the Freedom Village Development Corporation and not to the individual condominium unit owners. The Board finds the average assessment for the one 75th interest in the land of each condominium unit owner to be \$200. For the above stated reasons the Board therefore rules the proper assessment for each of the five subject properties in this consolidated hearing to be \$4,300.

If the taxes have been paid, the amount paid on the value of each of the subject properties in excess of \$4,300 is to be refunded with interest at six percent per annum from date of payment to date of refund.

The Board also finds the Taxpayers presented evidence and testimony certain questionable assessing practices by the Town of Freedom. The Town does not use assessment cards making it difficult to determine the basis for an assessment and in addition makes access to what minimal records are maintained very difficult as a matter of Town policy. The equalization ratio, as determined by the Department of Revenue Administration and substantiated by the report of the Boards review appraiser, indicate the strong potential for inequitable assessments. These apparent facts indicate there may be substantial variance from sound assessment practice to the extent that there may be substantial unfairness in the sharing of the tax burden by the owners of taxable property in the Town of Freedom.

Pursuant to its authority under RSA 71-B:16III and in accord with administrative rule Part Tax 210.02(6) the Board hereby issues notice a public hearing shall be held to determine if the Town of Freedom should be reassessed.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esquire, Chairman

George Twigg, III, Member

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Peter J. Donahue, Member

(Mr. Franklin did not sit.)

Paul B. Franklin, Member

Date: March 9, 1989

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gary R. & Susan M. Letourneau, Joseph E. Trodella, Diane & Francis Massiglia, Neil L. & Lillian M. Buckley and John J. & Barbara A. Hargedon, taxpayers; Randy Lyman, representative of the Taxpayers; and the Chairman, Board of Selectmen of Freedom.

Michele E. LeBrun, Clerk

Date: March 9, 1989

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