

Leo J. Kennedy, Jr. and Pauline A. Kennedy

v.

Town of Conway

Docket No. 5048-88

DECISION

A hearing in this appeal was held, as scheduled, on November 16, 1990. Neither the Taxpayers nor the Town was represented.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$53,300 (land, \$10,640; buildings, \$42,600) placed on their real estate, located on their Northface Condominium for the 1988 tax year.

The equalization ratio for the Town of Conway for the 1988 tax year was 40%.

The taxpayer submitted sales of six Northface Condominium units (1, 22, 23, 26, 32, 33) which sold in 1987 and 1988. The range of selling prices for these units were \$83,500 to \$92,500.

The taxpayer submitted a copy of an April 3, 1989, letter from Conway Assessor, Mr. James Fennessey, which stated in part,  
"The Town of Conway is revaluating all properties for the 1989 tax bill which will be out in November. In the case of Northface, I am sure there will be some tax benefit . . . while some other areas will be picking up a greater share."

In his letter to the Board of Tax and Land Appeals (November 13, 1990), Mr. Fennessey said, "At the time of the revaluation in 1989, real estate was declining and condos were feeling the effect to an extreme. As a group, they were assessed higher because of this, but were basically equal as a comparative throughout the town. Part of the process of revaluation was to bring these properties back in line.

". . . An abatement of taxes is granted on the ground that the sum assessed is in excess of the petitioner's share of the common burden, and not because the appraisal of his estate is dissimilar to that of other taxpayers in the same business or owning the same kind of property. . .

. . . All property alike is to be appraised 'at its full and true value in money.' P.S., c. 58, s. 1. There is no foundation for the proposition that owners of one kind of property should pay more or less than their share of the common burden because of the character of their estate. . . ." See Amoskeag Manufacturing Co. v. Manchester:

The Board of Tax and Land Appeals finds that the taxpayer is entitled to relief in the tax year appealed (1988), and should not have to wait until the 1989 revaluation figure of \$80,600 is recognized by the town.

The Board therefore rules the correct 1988 total 100% assessment to be \$83,500.

The equalized value ( $\$83,500 \times .40$ ) is, therefore, \$33,400.

If the taxes have been paid, the amount paid on the value in excess of \$33,400 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Peter J. Donahue, Member

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Paul B. Franklin, Member

Date: November 26, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Leo J., Jr. & Pauline A. Kennedy, taxpayers; and Chairman, Selectmen of Conway.

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Michele E. LeBrun, Clerk

Date: November 26, 1990

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