

Donald P. LaVallee and Susan J. LaVallee

v.

Town of Hooksett

Docket No. 5147-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$74,800 on a condominium unit (the Property). 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 their burden and prove any disproportionality.

The Taxpayers argued the assessment was excessive because:

(1) the Town's methodology for assessing units in this condominium, especially in applying a developer's discount, was inconsistent and erroneous; and

(2) sales of units around April 1, 1988, demonstrated a value less than this Property's assessed value.

The Town argued the assessment was proper because:

(1) it was in line with other comparables; and

(2) it was consistent with sales during the applicable time period.

We find the Town's sales support the Property's assessment. This leaves the Taxpayer's argument that the developer's discount was incorrectly and/or inconsistently applied to other units. This argument is basically an argument that others are underassessed, and therefore the Property's assessment must also be lowered.

The board finds the Taxpayers' Property was not overassessed. However, there was evidence indicating certain surrounding properties may have been underassessed. The underassessment of other properties does not prove the overassessment of the Taxpayers' Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayers' assessment because of underassessment on other properties would be analogous to a weights and measure inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

We find the Taxpayers failed to prove their assessment was disproportional. We also find the Town supported the Property's assessment.

We hope, however, the Town will review the application of the developer's discount in this condominium. The Taxpayers certainly proved the Town's methodology on this factor was full of flaws.

SO ORDERED.

July 30, 1991

BOARD OF TAX AND LAND APPEALS

—

George Twigg, III, Chairman

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Donald P. and Susan J. LaVallee, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Hooksett.

July 30, 1991

Brenda L. Tibbetts, Clerk