

Alexander Deltwas, Thelma Deltwas, Roger Trudel, and Linda Trudel  
v.  
Town of Bristol

Docket No. 5192-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 total assessment of \$823,000 on their real estate consisting of the remaining 22 sites with some improvements of a development known as Windridge Condominiums (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved they were disproportionally taxed.

Mr. Trudel, one of the Taxpayers, argued that the Town's value of \$31,800 for each unimproved site was excessive as they were part of an integrated condominium development and could not be sold off separately as if they were lots. He testified that the property was purchased in July of 1986 with an existing farmhouse and conditional approval to construct a total of 42 condominium units. He stated that the total site development bid price was \$400,000 which included the roads, utilities, and individual site excavations.

The Town testified that the undeveloped site value was extrapolated from 13 sales of units in Windridge. The replacement cost of the building was subtracted from the untrended sale price to arrive at an indicated site and amenity value. The undeveloped sites were reduced 40 percent to reflect a developer's discount.

The board accepts the Town's basic method of deriving the undeveloped site value as it is market derived. However, the Taxpayers' testimony concerning the original purchase price of \$600,000 (which included an existing farmhouse, a partial unit, and several foundations), total site costs of \$400,000 (some of it yet to be incurred), additional marketing and "soft" costs, and the outstanding risk of completing the project, all warrant a larger discount of the retail site value than the minus 40 percent used by the Town. See Public Service Company of New Hampshire & a. v. Town of Seabrook, 126 N.H. 740 (1985).

The Board rules that, based on the specific facts of this case as enumerated above, the retail site value of \$53,000 should be reduced by a minus 55 percent factor to result in a correct undeveloped site value of \$23,850.

Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979); see also Marshall Valuation Service, Section 1, Page 3, March (1989). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975).

As a result, the board rules that the proper total 1988 assessment of the Taxpayers' property should be \$648,100.

If the taxes have been paid, the amount paid on the value in excess of \$648,100 is to be refunded with interest at six percent per annum from date paid until refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

March 6, 1991

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Alexander and Thelma Deltwas and Roger and Linda Trudel, the Taxpayers, to the Chairman, Board of Selectmen, Town of Bristol, and to Richard Young, DRA.

Michele E. LeBrun, Clerk

March 6, 1991