

**Robert D. King**  
**v.**  
**Town of Bartlett**

**Docket Nos. 6209-89 and 9653-90**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessment of \$78,800 (land, \$18,900; buildings, \$59,900) on Merriman Forest #11 (MF-11) - Map IRT 16A, Lot 128H11 (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- (1)the Town applied a land valuation method inconsistent with other non-condominium properties;
- (2)the "hearth assessment" should be 1/2 of the value of a fireplace;
- (3)he was charged a premium for his view not charged to single family residential lots;
- (4)his purchase price of \$176,650 was made when the market was at its peak (Sept. 1988); and
- (5)the story height of his unit is 1 3/4, not 2.

The Town argued the assessment was proper because a number of adjustments were made based on recommendations by Mary Pinkham (Consultant), which resulted in a total assessment reduction from \$93,400 to \$78,800 for tax years 1989 and 1990.

Based on the evidence we find the correct total equalized assessment should be \$69,000 for 1989 and \$63,750 for 1990. This assessment is ordered for a number of reasons. The purchase price (\$176,650 - Sept. 1988) of Unit MF-11 was far in excess of the 1989-1990 market; the application of the 1990 land adjustment to 1989 (owing to an association charge for land) was flawed; the story height and fireplace values are suspect; and two comparable sales in the complex support the reductions. No further adjustments are required by the Town as the Board's decision reaches a conclusion of total assessed value (46% for 1989 and 51% for 1990). The allocations between land and building are left to the Town officials to calculate. This is intended as a "stop gap" measure in anticipation of a Town-wide revaluation ordered by this Board effective April 1, 1993.

If the taxes have been paid, the amount paid on the value in excess of \$69,000 in 1989 and \$63,750 in 1990 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert D. King, taxpayer; and Chairman, Selectmen of Bartlett.

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Valerie B. Lanigan, Clerk

Date: April 22, 1992

0007

**Robert D. King**  
**v.**  
**Town of Bartlett**

**Docket No. 6209-89**

**ORDER**

This is a response to the "Taxpayer's" October 13, 1992 request for clarification concerning the amount of abatement due him. The board begins by noting that it has already denied the Taxpayer's rehearing motion. Therefore, the board's original order is now final. The only issue the board will address is whether the "Town" has failed to abide by the board's order.

The Taxpayer's request was somewhat confusing, but the board finally determined the Taxpayer was in essence arguing the Town was required to abate the taxes he paid on the common land. Such a position is meritless. The only property before the board was the Taxpayer's individual unit. Since the Town separately billed the association, a separate appeal was required for the board to review that assessment. See Appeal of Town of Sunapee, 126 N.H. 214 (1985) (the board only has jurisdiction over the property appealed).

The board ordered the Town to abate taxes paid on the Taxpayer's unit for assessments exceeding \$69,000 (1989) and \$63,750 (1990). The Town stated the abatements have been made, and therefore the board finds the Town has complied with the board's order. Therefore, the Taxpayer's request is denied. The board warns the Taxpayer that the decision is final since the rehearing times have passed. Any further requests filed by the Taxpayer shall be returned upon receipt.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I certify that copies of the within order have this date been mailed, postage prepaid, to Robert D. King, taxpayer; and Chairman, Selectmen of Bartlett.

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Valerie B. Lanigan, Clerk

Dated: November 23, 1992

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**Robert D. King**

**v.**

**Town of Bartlett**

**Docket Nos.: 6209-89 and 9653-90**

**ORDER**

This order relates to the parties' rehearing motions, which are denied.

Town's Motion

The Town's motion incorrectly assumes the board relied on the Marshall & Swift Valuation Service in making its decision. Nothing at the hearing or in the decision supports this assertion. The decision states the basis of the decision. The board has reviewed the Town's motion and rules it does not state any "good reason", RSA 541:3, in law or fact for a rehearing, and therefore the motion is denied.

Taxpayer's Motion

The board has reviewed the Taxpayer's motion and rules it does not state any "good reason", RSA 541:3, in law or fact for a rehearing, and therefore the motion is denied. The Taxpayer was given a full opportunity to present his appeal. The file on this condominium appeal is several inches thick; the hearing lasted 1 1/2 hours. The arguments presented were heard and acted upon.

The board does not answer seriatim each of the Taxpayer's multitude of arguments. As the board stated at the hearing, most of the Taxpayer's evidence and arguments were irrelevant to the only issue before the board, namely disproportionate assessment. The only relevant evidence and pertinent arguments were those on the property's fair market value and assessment as of April 1, 1989, and 1990, and those on the proportionality of the property's

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assessments to other assessments. See e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

To the extent the Taxpayer wants to proffer new evidence, the board does not accept evidence after the hearing unless such evidence could not have been produced at the hearing because of reasons beyond the party's control. No such case exists here.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I certify that copies of the within order have this date been mailed, postage prepaid, to Robert D. King, taxpayer; and Chairman, Selectmen of Bartlett.

Dated: June 1, 1992

Valerie B. Lanigan, Clerk

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