

**Kenneth Kraft and Sara Kraft**

**v.**

**Town of Atkinson**

**DECISION**

**Docket No.: 6294-89**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$209,200 (building only) on a model "Esquire" condominium unit #5 at Wright Farms Condominiums (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 this burden.

The Taxpayers argued the assessment was excessive because:

- (1) there are 14 "Esquire" units in Wright Farms Condominiums and all have the same square footage and 2 of the 14 have finished basements;
- (2) other Esquire units are assessed at a lower value;
- (3) the only differences in Esquire units are that some are duplex, some are part of a triplex, some with walk out basements, and some look over a

pond, woods or grassy area;

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- (4) Esquire Unit #23, Warner, was assessed for \$182,800 and is assessed lower because it is currently in litigation;
- (5) the fair market value as of April 1, 1989 is between \$190,000 and \$195,000; and
- (6) the concern is equality - all units built the same should be assessed the same.

The Town argued the assessment was proper because:

- (1) the units mentioned by the Taxpayers were reviewed and the Shula unit (#2) was found to be accurate; the Bernside unit (#27) was found to be measured correctly but after the hearing process, a 16' x 24' room was inadvertently dropped which was corrected for 1991 and that unit also has a small section (12' x 20') of finished basement;
- (2) the Warner unit (#23) has visible structural problems which affect the value of the property and is currently involved in litigation against the developer - an economic adjustment of 20 percent was applied in consideration of the ongoing investigation and visible problems; and
- (3) the assessment is very consistent and equitable.

We find the Taxpayers failed to prove the Property's assessment was disproportional.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Kenneth and Sara Kraft, Taxpayers; and Chairman, Selectmen of Atkinson.

Dated: May 1, 1992

Valerie B. Lanigan, Clerk

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