

Thomas and Susan Graves, et al.

v.

City of Dover

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

DECISION

These consolidated RSA 76-16-a appeals involve the assessments (shown on the attached sheet) on 23 condominium units at The Paddock Condominium. For the reasons stated below, the appeal 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 assessments were excessive because:

- (1)they were relatively higher than the assessments on nearby single-family homes;
- (2)the developer paid for numerous off-site improvements and yet the Taxpayers were now being taxed for those improvements;
- (3)the City's methodology for assessing the units was flawed; and
- (4)the City had agreed in 1988 to lower assessments.

The City argued the assessments were proper because:

- (1)a sales-to-assessment study demonstrated the assessments were 44% (median) of the sales price and this was consistent with the 43% equalization ratio (also median) calculated by the Department of Revenue;
- (2)the City reviewed the assessment given the sales data; and
- (3)the infrastructure costs are irrelevant to the units' market values.

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

Thomas and Susan Graves, et al.

v. City of Dover

Page 2

We find the Taxpayers failed to prove their assessment was disproportional. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their burden, the Taxpayers must make a showing of the Property's fair market value. This value will then be compared to the Property's assessment and the level of assessments generally in the City. 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.

We also find the City supported the Property's assessment. In essence, the question is whether the assessments fall within a reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 119 N.H. 919. The 43% equalization ratio is some evidence of the City's general level of assessment, and the City's sales-to-assessment study resulted in 44% (median) figure. This demonstrated the units' assessments at 44% of assessment-to-sales value was within the range of generally prevailing sales-to-assessments ratio of 43%. Additionally, the 1989 sales were good evidence of the units' fair market value.

Concerning the Taxpayers' argument about the assessments on some single-family homes, the board finds this evidence did not show the Taxpayers' Property was overassessed. However, there was evidence indicating certain surrounding properties may have been underassessed. The underassessment of other properties, however, 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

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

Thomas and Susan Graves, et al.

v. City of Dover

Page 3

standard yardstick. The courts have held that in measuring tax burden, market value is the proper

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

Thomas and Susan Graves, et al.

v. City of Dover

Page 4

standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

Finally, the Taxpayers' arguments concerning taxation on the infrastructure is without merit. The board focuses on the units' value as reflected in the market. See RSA 75:1. The sales data supported the assessments. Moreover, the developer anticipated recouping the infrastructure costs in the sales.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to David A. Goodwin, Representative for the Taxpayers; and Chairman, Board of Assessor of Dover.

Valerie B. Lanigan, Clerk

Date: March 26, 1992

0007

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

Thomas and Susan Graves, et al.

v. City of Dover

Page 5

Thomas Graves and Susan Graves, et al

v.

City of Dover

Docket No's. 6727-89 thru 6731-89 and 6733-89 thru 6750-89

ORDER

On April 1, 1992, the Board of Tax and Land Appeals (board) received a motion for rehearing from the Taxpayers' representative, David A. Goodwin. The basis for his request is that the board based its ruling on the City of Dover's assessment study, which was not submitted as evidence at the hearing.

The board denies the request for rehearing. The City's analysis of sales at Paddock Condominium was submitted as an exhibit at the hearing (copy enclosed). The information in the analysis was based on public information, recorded transactions and public tax records. This data is the very evidence needed to determine whether assessments are proportional to market value as required by the New Hampshire Constitution and RSA 75:1.

The Taxpayers' representative's five dollar check for filing a motion for rehearing is returned, as such a fee is no longer required.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

Thomas and Susan Graves, et al.

v. City of Dover

Page 6

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Docket No. 6727-89 through 6731-89 and 6733-89 through 6750-89

Thomas and Susan Graves, et al.

v. City of Dover

Page 7

#6727-89 thru #6731-89 and #6733-89 thru #6750-89

Graves, et al v. City of Dover

Page 2

I certify that copies of the within Order have this date been mailed, postage prepaid, to David A. Goodwin, representative for Thomas & Susan Graves, et al, taxpayers; and the Chairman, Board of Assessors of Dover.

Valerie Lanigan, Clerk

Date: April 15, 1992

0009