

Edward C. and Evelyn M. Unger

v.

Town of Durham

Docket No. 6754-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$189,400 on their condominium unit, #35 on Bucks Hill Road in the Canney Farms development (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.

The Taxpayers argued the assessment was excessive because:

- (1) their unit was assessed at a greater differential from its selling price than all other units;
- (2) they purchased the unit in June 1988 for \$160,000 directly from the builder;
and
- (3) while their unit was one of the largest, square footage should not be the sole criteria in establishing market value.

The Town presented:

- a) a list of comparable properties used in the revaluation;
- b) a spread sheet showing the comparables and various units of comparison, e.g., usable square feet and effective area;
- c) a spread sheet showing the Property; and
- d) the assessment cards for the comparables. The Town also showed on a city map the location of the comparables and the Property.

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The Town argued the assessment was proper because:

- 1) it was based on sales data of comparable properties with adequate adjustments made to reflect the Property's value;
- 2) the same methodology was used for these types of properties;
- 3) the Taxpayers' unit had a two-car garage, an additional bathroom, and a finished basement;
- 4) the Taxpayers' purchase price was below market value because the price was set by the builder; and
- 5) a three percent reduction was applied for the size of the unit.

Based on the evidence, we find the correct assessment should be \$175,800.

This assessment is ordered because the size of the unit is significantly larger than other units in the complex. Since the site and amenity value is included in the base rate multiplied times the effective building area, a further 7 percent adjustment is warranted so as not to overstate the total property value.

If the taxes have been paid, the amount paid on the value in excess of \$175,800 shall be refunded with interest at six percent per annum from date paid to refund date.

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 Edward C. and Evelyn M. Unger, Taxpayers; Chairman, Selectmen of Durham; and Scott W. Bartlett, Appraiser for M.M.C., Inc.

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Melanie J. Ekstrom, Deputy Clerk

Date: February 5, 1992

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