#6853-89
Frank L. Grzyb and Virginia M. Grzyb
v.
Town of Northfield

#7014-89
Michael Warren Holmes
v.
Town of Northfield

#7124-89
Frank Antonelli and Anne Antonelli
v.
Town of Northfield

#7226-89
Charles N. Frederiksen and Debra E. (Brazee) Frederiksen
v.
Town of Northfield

#7316-89
Robert J. Clappi and Virginia D. Clappi
v.
Town of Northfield

#7536-89
Frank Branciforte and Norma Branciforte
v.
Town of Northfield

#7542-89
Francis A. Bibbo and Stephanie C. Bibbo
v.
Town of Northfield

#7543-89
Walter K. Eriksen, Sr. and Doris B. Eriksen
v.
Town of Northfield

#7544-89
Walter K. Eriksen, Jr. and Joyce M. Eriksen
v.
Town of Northfield

#7561-89
Kathleen L. Carney
v.
Town of Northfield

#7574-89
Francis E. Fitzgerald and Kathleen A. Fitzgerald
v.
Town of Northfield

#7575-89
Stephen F. Rewucki and Elizabeth Rewucki
v.
Town of Northfield

#7584-89
Richard K. Holland and Gretta M. Holland
v.
Town of Northfield

DECISION

These cases were consolidated for hearing purposes, and due to the similar issues, are consolidated for the purpose of this order.

These thirteen taxpayers (collectively referred to as "Taxpayers") were owners of individual condominium units in the development known as Highlands Resort Condominium. The Taxpayers appeal, pursuant to RSA 76:16-a, the following 1989 assessments:

Docket No.	Name	Unit No.	Assessment
#6853-89	Grzyb	23	$ 92,500
#7014-89	Holmes	4	$ 92,400

#7124-89	Antonelli	10	$ 92,300
#7226-89	Frederiksen	1	$ 98,300
#7316-89	Clappi	11	$ 91,000
#7536-89	Branciforte	14	$ 92,300
#7542-89	Bibbo	20	$ 93,400
#7543-89	Eriksen, Sr.	24	$ 94,500
#7544-89	Eriksen, Jr.	18	$ 95,900
#7561-89	Carney	6	$ 95,900
#7574-89	Fitzgerald	30	$110,500
#7575-89	Rewucki	27	$110,500
#7584-89	Holland	28	$108,100

The Taxpayers have the burden of showing the assessments were 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 disproportionality.

The Taxpayers argued the assessments were excessive because:

1) They are being assessed disproportionately high in relation to true value;

2) Phase I sales (24 units) began in 1988, all units had the same floor plan and sold in a range of $72,900 to $106,000. Four units were sold either to partners or were sold furnished and with finished basements. The last three units sold in February, March and May of 1988 for $85,000 each.

3) Phase II has 16 units total, 6 sold prior to 1989; all of Phase I sold prior to 1989.

4) In April, 1989, property prices had peaked and were on the decline.

5) An Acknowledgement and Consent signed at time of the purchase represented to the buyers that the units would be connected to a municipal sewerage system and it was later learned that the development had only a holding tank.

6) The purchasers were told that a tennis court and pool would be built but never were.

7) The assessment cards reflect an amount of $21,400 for each unit owner for amenities; multiplying the 40 unit owners by $21,400 equals $856,000 and divided by the total acres of 62.5 equals $13,696 per acre.

8) 36.49 acres of land was dedicated for Phase III and was convertible land owned by the developer. Only 26.5 acres should be assessed to the unit owners.

9) $85,000 for Phase I unit owners would be a fair and proportionate assessment and $100,000 for Phase II unit owners would be fair and proportionate.

The Town argued the assessments were proper because:

1) The Town prepared a sales ratio study using 29 sales in Highland Condominiums from 1987 to 1989.

2) Sales were trended 1.0 percent per month for 1987; 0.5 percent per month for 1988 and nothing near the end of 1988 and in 1989.

3) A market extraction method was utilized by arriving at a price per square foot for a condominium, time adjusting the sale, subtracting from the total sales price the indication of the replacement cost and the difference was assigned as amenity value which is the bundle of rights to the land, parking, drives, etc. that unit owners have rights to.

4) Highlands Condominiums is the only condominium complex in the Town of Northfield, apartment complexes owned by one owner were appraised differently.

5) Phase I units were graded average and the assessments are fair. There may be a problem on some units assessed for a 4 X 14 front section, and these units should be adjusted.

6) Phase II units were graded average +10, selling prices of Phase II properties in 1988 show an assessment of around $100,000 is fair. All of the Phase II properties under appeal are middle units and should be adjusted giving a 10 percent functional obsolescence to the buildings.

Based on the evidence, we find the correct assessments should be:

PHASE I:

Docket No.	Name	Unit No.	Corrected Building	Land	Market Adjustment	Assessment
#6853-89	Grzyb	23	$68,750	$21,400	$4,500	$85,650
#7014-89	Holmes	4	$68,750	$21,400	$4,500	$85,650
#7124-89	Antonelli	10	$68,750	$21,400	$4,500	$85,650
#7226-89	Frederiksen	1	$71,650	$21,400	$4,650	$88,400
#7316-89	Clappi	11	$68,600	$21,400	$4,500	$85,500
#7536-89	Branciforte	14	$68,750	$21,400	$4,500	$85,650

#7542-89	Bibbo	20	$68,800	$21,400	$4,500	$85,700
#7543-89	Eriksen, Sr.	24	$69,200	$21,400	$4,500	$86,100
#7544-89	Eriksen, Jr.	18	$68,150	$21,400	$4,450	$85,100
#7561-89	Carney	6	$68,150	$21,400	$4,450	$85,100

PHASE II:

Docket No.	Name	Unit No.	Corrected Building	Land	Assessment
#7574-89	Fitzgerald	30	$80,050	$21,400	$101,450
#7575-89	Rewucki	27	$80,050	$21,400	$101,450
#7584-89	Holland	28	$77,850	$21,400	$ 99,250

Phase I - The board found that a 5 percent reduction to the Phase I units was warranted based on the market evidence that Phase I condominiums had a fair market value of $85,000 per unit. The board found no market evidence showing that end units were selling at a higher price and has applied a .88 factor on the buildings for the end units (units #1, 6, 18, 24). Further, the board has made the adjustments for those units whose square footage was assessed incorrectly.

Phase II - The board found no evidence that the assessments of Phase II units were disproportional other than applying a 10 percent adjustment for functional obsolescence as suggested by the Town because these properties were all middle units.

If the taxes have been paid, the amount paid on the values in excess of the board's order shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

_____

Paul B. Franklin, Member

_____
Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Pauline L. Guay, Representative for the Taxpayers; Charles N. and Debra E. (Brazee) Frederiksen, Taxpayer; and Chairman, Selectmen of Northfield.

_____
Valerie B. Lanigan, Clerk

Date: June 17, 1992

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