

Jennifer A. Mills and Robert J. Thompson

v.

City of Concord

Docket No.: 6913-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 assessment of \$18,840 (land, \$5,300; buildings, \$13,540) on a condominium located at 185 Loudon Road - Unit #15 (the Property). The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. 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) the Property was purchased in January, 1988 for \$63,000 and the condo was never worth the price set by the developers;
- (2) the unit is worth less than 2/3 the price paid for it and the taxes are

now 50 percent higher than they were at the time of purchase or 3-1/4 times the monthly rent for a tiny 3 room apartment;

- (3) no unit has resold for even one-half of the initial sale prices;
- (4) nearly all of the purchasers of the units were from out of state and unaware of what real property values were at the time;
- (5) in September, 1991, the units were being marketed for \$19,900 to \$29,900; and
- (6) the assessment is illegal, disproportionate and unjust.

The City submitted:

- a) a list of comparable sales;
- b) photos of the subject and comparables;
- c) a sales grid showing the subject and comparables with various units of comparison, e.g., date of sale, age of unit, gross living area;

and argued the assessment was proper because:

- (1) the estimate of market value of the Property as of April 1, 1989, based on the comparable sales, is \$75,000;
- (2) the sales were not adjusted for time because the Garden Style Condominium units in this project reached their peak value in the summer and early fall of 1988 and the weakness in the market did not become evident until the fall and winter of 1989;
- (3) the units were built in two phases, in 1969 and in 1984, and converted to condominiums in September, 1987 - all of the units were upgraded before marketing the property therefore no adjustment for age was required;
- (4) many of the units were sold for investment opportunities; and
- (5) the deed indicates that the Property sold for \$75,000 in January, 1988.

Board's Rulings

The Taxpayers complained about the high amount of taxes they must pay.

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The amount of property taxes paid by the Taxpayers was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

We find the Taxpayers failed to prove the Property's assessment was disproportional for the following reasons:

(1) The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been 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.

(2) The Taxpayers indicated the Property was purchased in January, 1988 for \$63,000. The sales price, although not conclusive evidence, is some

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evidence of the Property's market value. Applying the City's equalized ratio of 30 percent for 1989 to the sales price would indicate an assessment of \$18,900 which supports the City's assessment.

(3) The City testified that the weakness in the market in this project did not become evident until late 1989. This evidence was supported by the Taxpayers' September 26, 1991 letter from Brickstone Commons.

(4) The City's market value is supported by the sales of units in the complex.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Jennifer A. Miles and Robert J. Thompson, Taxpayers; and Chairman, Board of Assessors of Concord.

Dated: March 1, 1993

Valerie B. Lanigan, Clerk

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