

**Thomas E. and Noreen A. Thompsen**

**v.**

**City of Dover**

**Docket No.: 7084-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 assessment of \$45,700 (land, \$2,500; buildings, \$43,200) on a 560 square-foot lot with a townhouse condominium (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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) comparable sales in 1989 indicate the Property is overassessed;
- (2) the unit is in Phase I of the condominium complex which has electric heat pump systems and is of less value than Phase II units which has gas heat;
- (3) the condominium is unfairly assessed compared to single family homes of approximately the same age;

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(4) the condominium is unfairly assessed when compared to more valuable condominium units; and

(5) a fair and proportionate assessment is \$37,400.

The City submitted a ratio analysis of sales of properties and property record cards. The analysis indicated a 7 percent difference from the equalization ratio and recommended reducing the assessment to \$42,600 for the 1989 tax year.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$39,775.

This assessment is ordered because:

(1) the comparable sales indicated that from April, 1988 to April, 1989 the market was declining at a rate of 1 percent per month; and

(2) the board found no evidence that the market was showing a difference in selling prices between the Phase I and Phase II units.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the City shall make this allocation in accordance with its assessing practices.)

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If the taxes have been paid, the amount paid on the value in excess of \$39,775 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas E. and Noreen A. Thompsen; Taxpayers; and Chairman, Board of Assessors of Dover.

Dated: February 12, 1993

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Valerie B. Lanigan, Clerk

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