

Kathleen A. and James E. Tucker

v.

City of Dover

Docket Nos.: 7085-89 and 8746-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1989 and 1990 assessments of \$45,700 (land, \$2,500; buildings, \$43,200) on a 560 square-foot lot with a 4-story 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 and 1990 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;

(5) Pease Air Force Base had a great affect on value after it made its announcement that it was leaving the area; and

(6) 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 and \$40,100 for the 1990 tax year.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$39,775 for tax year 1989 and \$35,535 for tax year 1990. These assessments are 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;

(2) the sales data indicated that the market experienced a \$10,000 drop in value from October, 1988 to June, 1989 and the comparables suggest that the market was constant from June, 1989 to October, 1989;

(3) the imminent departure of Pease Air Force Base affected already declining market values; and

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

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If the taxes have been paid, the amount paid on the value in excess of \$39,775 for tax year 1989 and \$35,535 for tax year 1990 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 a copy of the foregoing decision has been mailed this date, postage prepaid, to Kathleen A. and James E. Tucker; Taxpayers; and Chairman, Board of Assessors of Dover.

Dated: February 12, 1993

Valerie B. Lanigan, Clerk

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