

**Philip F. Freehan and John J. Biggio**

**v.**

**Town of Hooksett**

**Docket No.: 7379-89**

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's 1989 assessment of \$71,700 on a condominium (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 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.

The Taxpayers argued the assessment was excessive because:

- (1) the Property was purchased in September, 1987 for \$71,900 and sales prices at that time were based on availability of unconventional, no money down financing;
- (2) owner's mortgage lender foreclosed on five units beginning in April, 1989 and were listed by the bank for \$49,900;

- (3) a November, 1989 appraisal of a two bedroom unit by Terrence Tully estimated the value to be \$45,000; and
- (4) a smaller, one bedroom condominium was worth no more than \$40,000.

The Town argued the assessment was proper because:

- (1) comparable sales utilized sold in the last half of 1988;
- (2) the only other sale was in March, 1989 which was a bank foreclosure of an individual unit for \$45,000;
- (3) as of April, 1989, there was no market effect of the downturn in values; and
- (4) all units similar to the subject were assessed similarly.

Based on the evidence, we find the correct assessment should be \$53,250.

This assessment is ordered because the assessment should have been adjusted to reflect the April 1989 market for these units. By April 1989, the bank was already foreclosing on the units and trying to sell them for approximately \$45,000. The board, therefore, applied a -25% adjustment to bring the assessment more in line with the market. Admittedly, determining a proper adjustment is difficult, but the 25% adjustment is adequate based on the evidence.

If the taxes have been paid, the amount paid on the value in excess of \$53,250 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

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Ignatius MacLellan, Esq., 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 Philip F. Freehan and John J. Biggio, taxpayers; and Sandra Piper, Assessing Dept. of Hooksett.

Dated: May 24, 1993

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Valerie B. Lanigan, Clerk

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