

Robert C. and Patrice F. Harrington

v.

Town of Merrimack

Docket No.: 7444-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$94,900 (land, \$30,000; buildings, \$64,900) on Map 1E, Lot 001-165, a condominium at 2 Suncook Terrace (the Property). 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) it exceeded the Property's market value;
- (2) the Property has been on the market without selling;
- (3) the garden-style units, like the Property, have less value than duplexes;
- (4) it was disproportional compared to other assessments in the complex;
- (5) a similar unit was on the market in 1993 for \$54,900;
- (6) the purchase price in June 1987 was \$103,000;

(7) the rental rate in 1989 was \$795 per month without utilities (3 months vacant); and

(8) the proper assessment should be \$65,000.

The Town argued the assessment was proper because:

(1) the Taxpayers, during the 1989 reviews with the Town, estimated an \$85,000 value;

(2) it was based on sales of similar units collected during the revaluation;

(3) it is lower than the Taxpayers' purchase price to reflect the market changes from 1987-89; and

(4) all units were similarly assessed with adjustments made for size and extra features and if a similar unit was assessed for less, it was an error and an underassessment.

Board's Rulings

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The tough issue in this appeal was the lack of any sales after 1987. The assessment was 8% less than the Taxpayers' purchase price. There being no market evidence, we were left with the uniformity of assessment, which the Town established.

The board finds the Taxpayers' Property was not overassessed. However, there was evidence indicating certain surrounding properties may have been underassessed. The underassessment of other properties does not prove the overassessment of the Taxpayers' Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayers' assessment because of underassessment on other properties would be analogous to a weights and measure inspector sawing off the yardstick of one tailor to

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conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert C. and Patrice F. Harrington, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 8, 1993

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Valerie B. Lanigan, Clerk

I hereby certify a copy of the foregoing decision has been mailed this date, postate prepaid to Robert C. and Patrice F. Harrington, Taxpayers; and Office of the Assessor of Merrimack. This decision was sent to another Taxpayer in error on February 8, 1993.

Dated: February 12, 1993

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Valerie B. Lanigan, Clerk