

**Richard C. and Everette C. Gazda**

**v.**

**City of Rochester**

**Docket No.: 10182-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1990 assessments of: \$324,000 (land \$40,000; buildings \$284,000) on Map 82, Lot 75, a 4.95-acre lot with a 20-unit apartment building known as Colonaide Apartments; and \$618,100 (land \$76,900; buildings \$541,200) on Map 16, Lot 6, a 9.29-acre lot with a 36-unit apartment building known as Profile Apartments (the Properties). The Taxpayers and the City waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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 show disproportionality.

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The Taxpayers argued the assessments were excessive because:

- 1) the Properties were not worth the assessed value;
- 2) the Properties were listed for sale for \$740,000;
- 3) the Properties had a \$10,000, per-unit market value; and
- 4) the Properties had a high vacancy rate and require constant maintenance.

The City argued the assessments were proper because:

- 1) the Taxpayers purchased the Properties in 1986 for \$2,206,000 and the Properties were foreclosed in 1991 for \$677,500;
- 2) the Taxpayers failed to time adjust the market information to 1990;
- 3) they were supported by an analysis of market rents, vacancies, expenses and assessments;
- 4) the Properties were already given a \$72,500 abatement to address the Taxpayers' concerns; and
- 5) the Properties were assessed equitably with other apartment complexes in the Town.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. The inspector made the no adjustment to the City's assessment. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence,

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giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. The board did not consider the inspector's report.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to carry its burden. The board made this decision based on the following:

- 1) the Taxpayer did not submit any 1990 market data for sales of comparable properties or for rental and expense information on comparable properties;
- 2) the only information provided was for 1992, following the foreclosure on the Properties;
- 3) even if the listing information was accepted, it was not time adjusted to April 1, 1990, nor was any information presented about how the listing was calculated; and
- 4) the Town submitted sufficient market data and analysis to show that the assessment was appropriate.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3.

The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard C. and Everette C. Gazda, Taxpayers; and Chairman, Rochester Board of Assessors.

Dated: July 14, 1993

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Melanie J. Ekstrom, Deputy Clerk

0008/005