

Donald Donofrio

v.

Town of Tilton

Docket No.: 10570-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 \$98,900, per-unit assessment on four condominium units at Waterside at Winnisquam (the Units). The Taxpayer and the Town 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 abatements is denied.

The Taxpayer has the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessments were excessive because:

1) the Units are located in a business zone and surrounded by a bait shop, marina, post office, general store and video store, and this detracted from the Units' values;

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- 2) the Units were each listed for \$79,000, including \$8,000 in furniture, but no potential buyers were interested;
- 3) the assessments do not reflect the Units' true market values;
- 4) many condominium units in the Town have twice the square footage of the Units and more amenities, yet are offered for only \$59,000 to \$89,000 and cannot be sold; and
- 5) the Town's appraiser failed to consider the depressed housing and economy in assessing the Units, and also failed to recognize that the replacement cost would be \$21,500 per-unit.

The Town argued the assessments were proper because similar units sold in August, 1989 for \$81,400; June, 1989 for \$81,500 and \$88,500; September, 1989 for \$98,200; January, 1990 for \$107,600; and October, 1988 for \$80,500 and the Units' assessments are well within range of comparable sales.

The board's inspector reviewed the assessment-record card and 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. This report concluded the assessment was proper. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove disproportionality. The subject units were built in 1989. The Taxpayer

argued the Town's replacement cost was too high, yet the Taxpayer submitted no evidence of the Units' replacement costs in 1989.

The Taxpayer did not present any credible evidence of the Units' fair market values. To carry this burden, the Taxpayer should have made a showing of the Units' fair market values. This value would then have been compared to the Units' assessments and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald Donofrio, Taxpayer; and Chairman, Selectmen of Tilton.

Dated: June 11, 1993

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Melanie J. Ekstrom, Deputy Clerk

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