

Mary M. and Paul M. Nelson

v.

Town of Tilton

Docket No.: 10600-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$94,400 (building \$24,400; amenities \$70,000) on a condominium unit on Winnisquam Lake (the Property). The Taxpayers 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 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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

1) the Property is over 75 years old and is the smallest unit in the association with only 346.28 square-feet living area consisting of one bedroom, one bathroom and a living room/kitchen area;

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2) the Property receives no Town services such as water, trash collection and snowplowing, no children attend the Town's schools, and in the eight years since Taxpayers purchased the Property, neither the fire nor police departments have been needed;

3) the Town's comparables are not comparable because one was purchased for \$78,000 at the height of the market, and the other is a larger, two-bedroom unit that sold for \$109,000; and

4) the Property is currently listed for sale in the low \$70,000 range.

The Town argued the assessment was proper because:

1) the Property is in above-average condition with an A1 quality rating, and the Property has excellent lake access and views;

2) the amenities include common land, boat docks, and swimming docks;

3) two other units sold for \$78,000 in October, 1988, and \$109,000 in January, 1990, and the Property's assessment was well within range of these comparable sales; and

4) the same methodology was used throughout the Town.

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 Taxpayers failed to prove the assessment was disproportionate. The board finds the Town adequately supported the assessment. The Town submitted two sales of condominium units which generally support the assessment.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment 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.

Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment. Barksdale v. Epping, ___ N.H. ___ (December 23, 1992).

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

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Mary M. and Paul M. Nelson, Taxpayers; and Chairman, Selectmen of Tilton.

Dated: June 3, 1993

Melanie J. Ekstrom, Deputy Clerk

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