

Barbara K. Funkhouser

v.

Town of Sunapee

Docket No.: 10669-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$325,200 on a condominium unit, number 11A, at a development know as Indian Cave Landing (the Property). 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 abatement is denied.

The Taxpayer has the burden of showing the assessment was 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.

The Taxpayer argued the assessment was excessive because:

- (1) the Property value has declined 40% since purchased in 1988;
- (2) lake property assessments are inequitable compared to other assessments in

Barbara K. Funkhouser

v.

Town of Sunapee

Docket No.: 10669-90

Page 2

the Town;

(3) within the last three years condominiums within the complex have sold between \$209,000 and \$220,000; and

(4) a second phase with the same floor plan has an asking price of \$210,000.

The Town argued the assessment was proper because:

(1) nine qualified sales were used to arrive at the 1989 assessments;

(2) there is no market evidence for the tax year 1990 indicating the Taxpayer's assessment is not proper; and

(3) condominiums have sold for \$220,000 or less but these sales were either distressed sales or occurred starting in late 1991 after the development had been foreclosed and resold.

Board Findings

We find the Taxpayer failed to prove the Property's assessment was disproportional. The Taxpayer submitted no evidence that, as of April 1, 1990, the market value of the Property was significantly less than the assessed value.

The sales of units in the \$220,000 range referred to by the Taxpayer occurred in late 1991 and 1992. The two sales in 1990 as described by the Town (one in March for an unfinished unit for \$221,000 and one at a foreclosure auction in June for \$275,000) reflect duress by the grantor to sell. If the \$65,000 estimate to finish the unit sold in March is added to

Barbara K. Funkhouser

v.

Town of Sunapee

Docket No.: 10669-90

Page 3

its sale price, the range for distressed unit sales in 1990 is \$275,000 to \$286,000. If even a modest 10 percent adjustment is applied to the sales for their distressed nature, the 1990 market-value-range estimate is \$302,500 to \$314,600. The Town's 1990 equalization ration, as determined by the Department of Revenue Administration, is 106 percent. The Taxpayer's assessment, when equalized by this ratio, indicates a market value of \$306,800 ($\$325,200 \div 1.06$). Therefore, the 1990 sales and the Town's level of assessment support the assessment of \$325,200 for the 1990 tax year.

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Barbara K. Funkhouser, Taxpayer; and Chairman, Board of Selectmen of Sunapee.

Barbara K. Funkhouser

v.

Town of Sunapee

Docket No.: 10669-90

Page 4

Dated: May 5, 1993

0008

Melanie J. Ekstrom, Deputy Clerk