

Gary M. Reiser

v.

Town of Seabrook

Docket No.: 10908-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$56,700 (land \$17,000; building \$39,700) on Map 9, Lot 211, a condominium unit in Pinecrest Woods (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 assessment is high compared to the actual value; and
- 2) other units in the building have sold for \$18,000 to \$20,000.

The Town argued the assessment was proper because:

- 1) adjustments were already made to address the decline in the market;
- 2) the Taxpayer's comparables were foreclosure sales which took place in late 1991; and
- 3) the Taxpayer was assessed equitably with other condominium units in the development, and with other properties in the Town.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded the assessment was proper and no adjustment was warranted.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to prove their assessment was excessive.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer 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.

The Taxpayer argued that other units have sold for \$18,000 to \$20,000. The sales made by an owner to satisfy delinquent loans are not "arms length" due to the pressure of the owner to sell; consequently, while these accelerated sales will affect the market value of those who choose not to sell, they alone do not define the market. Further, the Town's evidence indicated that the foreclosure sales took place in late 1991 and that downward adjustments were being made to address the decline in the market. The assessment under appeal is as of April 1, 1990, and the Taxpayer offered no evidence of the market condition as of that date.

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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Gary M. Reiser, Taxpayer, and Chairman, Selectmen of Seabrook.

Dated: May 7, 1993

Melanie J. Ekstrom, Deputy Clerk

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