

Paul and Robin Litwin

v.

Town of Waterville Valley

Docket No.: 8112-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$85,800 on a condominium unit at The Golden Eagle Lodge (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(3); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry their burden and prove any disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the Property was purchased August 1990, for \$49,500;
- 2) the amount paid was "the exact market value";
- 3) the Property was sold at a seller's auction, and was only a marketing

technique to "obtain what the market would bear," it was not a foreclosure. The units at Golden Eagle were marketed for one year prior to the sale; and 4) being assessed \$85,800 is unjust for the tax year 1990.

The Town argued the assessment was proper because:

- 1) the purchase price paid was a result of an auction and "were below market value"; and
- 2) the Property's assessment was arrived at using the same methodology used in assessing other properties within the Town, and "at the actual sales that have taken place during the 12 months prior to April 1 of each year."

The board finds:

- 1) Taxpayers failed to supply any information of comparable sales and assessments whereas the Town has supplied sales and assessments on similar properties to support its position;
- 2) 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. 187-90 (1982);
- 3) the purchase price paid by the Taxpayers was the result of an auction held after the date of assessment. Taxpayers did not submit any information as to the number of registered bidders at the sale. The sale of a large number of units (at auction) can, by the sheer magnitude of the sale, depress the units values received and cannot be considered a fair market, arms length transaction. Fair market value is the most probable price a property would bring if exposed for sale in the open market between a willing seller and a willing buyer. See Public Service of New Hampshire v. Seabrook, 126 N.H. 740, 742 (1985). It is also the board's experience that distress sales brings anywhere from 50-80% of a property's true value;

4) while the Town reduced the assessment to \$54,100 for the tax year 1991, there was no probative evidence presented that a similar or lesser reduction was warranted for the 1990 tax year; and

5) the assessment of \$85,800 is proper.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Date: September 13, 1991

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Paul and Robin Litwin, Taxpayers and Selectmen of Waterville Valley.

Date: September 13, 1991

Melanie J. Ekstrom, Deputy Clerk