

**Timothy A. and Sandra S. Convery**

**v.**

**Town of Woodstock**

**Docket No.: 8201-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$51,000 (land - \$7,000, buildings - \$44,000) on a three-bedroom condominium unit in Deer Park (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) a townhouse in their complex with greater square footage paid only \$27.00

more in taxes;

- 2) they are part-time residents yet pay a higher tax than full-time residents;
- 3) the taxes continue to increase despite a decrease in value; and
- 4) they receive no town services.

The Town argued the assessment was proper because:

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- 1) Deer Park has more common land per-unit and more amenities than other complexes in Town;
- 2) special features within some units will make assessments higher; and
- 3) an assessor reviewed certain properties and found a decrease in values, and the Town adjusted all properties accordingly.

#### Board's Rulings

Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

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.

The Taxpayers complained about the high amount of taxes they must

pay. The amount of property taxes paid by the Taxpayers were determined by two factors: 1) the Property's assessment; and 2) the municipality's budget.

See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute). Based on the evidence, we find the Taxpayers failed to prove disproportionality.

Motions for reconsideration of this decision must be filed within

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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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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

I hereby certify that a copy of the foregoing decision has been

mailed this date, postage prepaid, to Mr. and Mrs. Timothy A. Convery,  
Taxpayers, and Town of Woodstock Board of Selectmen.

Dated: October 27, 1992

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Melanie J. Ekstrom, Deputy Clerk

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