

Bernard A. and Elizabeth J. Gouchoe

v.

Town of Northfield

Docket No.: 8567-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$106,000 on a 1,748 square-foot condominium unit (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 granted.

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 carried this burden and proved they were disproportionately taxed.

The Taxpayers argued the assessment was excessive because:

- 1) the market on condominiums has decreased;
- 2) they purchased the Property for \$52,900 in December, 1990; and
- 3) similar properties sold for comparable prices (no supporting evidence submitted).

The Town argued the assessment was proper because:

- 1) it was arrived at during the Town's 1989 revaluation;
- 2) it is consistent with other assessments in this development;
- 3) the Taxpayers' purchase was a mortgagee sale, not a market sale; and
- 4) the department of revenues equalization ratio and coefficient of dispersion shows the Town's assessments are accurate.

Based on the evidence, we find the correct assessment should be \$90,100. While the Taxpayers' purchase was only \$52,900, it was not a market sale. Nonetheless, because of the sales by the bank, the Property's April 1, 1990 value was diminished. No one would pay \$106,000 for a unit when a unit could be bought for less than half from the bank. While the Taxpayers did not tell us when the developer's problems became public knowledge, we assume with a December, 1990 sale, the information had been out for some time.

The Town argued the consistent assessments on other condominiums shows no disproportionality. This is not true. The question is whether the Taxpayers' assessment is at a higher level as compared to assessments generally in the Town not just compared to similar properties. See Appeal of Sunapee, 126 N.H. 214 (1985).

The Town knows it must annually review its assessments and adjust those that have declined more in value than values generally in the Town. See RSA 75:1, RSA 73:1. In yearly arriving at an assessment, the Town must look at all relevant factors. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975). Certainly, the generally declining condominium market and specifically this development's bank sales, should have been considered.

It is clear that values on different types of properties fluctuate at different rates. Here, condominium units have dropped faster in value than other properties in the Town. The Town cannot look to the equalization ratio or the coefficient of dispersion to support its claim here because neither

study would include the bank sales since they were not market sales. Finally, the Town did not submit any 1990 market sales in this development, which is further evidence that only bank sales occurred.

The board is not obligated or empowered to establish a fair market value of the Property. Appeal of Public Service Company of New Hampshire, 120 N.H. 830, 833 (1980). Rather, we must determine whether the assessment has resulted in the taxpayers paying an unfair share of taxes. See Id. Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975).

While the board has concluded an adjustment is needed, the Taxpayers did not provide any real evidence of market value. The board has concluded that given the dearth of market evidence a minimum adjustment of 15% is warranted, reducing the assessment to \$90,100.

If the taxes have been paid, the amount paid on the value in excess of \$90,100 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the foregoing decision have been mailed this date, postage prepaid, to Bernard A. and Elizabeth J. Gouchoe, Taxpayers; and Chairman, Selectmen of Northfield.

Dated: November 15, 1991

Melanie J. Ekstrom, Deputy Clerk