

Gary W. Petrini and Lynn M. Petrini

v.

Town of Lincoln

Docket No. 8614-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$278,100 on a freestanding single-family condominium (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 their burden and prove any disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the land assessment is double its value; and
- 2) an appraisal as of June 1991 indicated a \$228,000 value.

The Town submitted several arguments with supporting exhibits, questioning the Taxpayers' position. Because the Taxpayers received copies of the Town's argument, they will not be repeated here.

While the Taxpayers submitted an appraisal, the appraisal actually supported the assessment. First, the appraisal was at \$228,000, and the Property's equalized value is \$252,820. The Town has a 110% equalization ratio, which means assessments exceed market value by 10%. The \$252,820 was calculated by reducing the assessment by the ratio. This demonstrates the

assessment is not

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far off. Second, the appraisal fails to make an adjustment to comparables 1 and 3, which have inferior locations. If the appraiser had included an adjustment value for the Property's superior location, the appraisal would be higher and even closer to the assessment. Third, the appraisal was as of June 1991, over 14 months after April 1, 1990, the focal date for the assessment. See RSA 76:2. The appraisal indicates a declining market from 1990 to 1991 because a time adjustment was made to comparable 1 and 3, indicating at least a 2% drop for this period. Making a time adjustment to the appraisal, brings the appraised value closer to the assessed value.

Finally, the photographs show the Property in a high-quality, free standing condominium, much more valuable than any of the comparables.

We find the Taxpayers failed to prove their assessment was disproportional. We also find the Town supported the Property's assessment.

Concerning the land value; in making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.) We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

The Town's arguments -- that site values increased after development -- supports the site value, especially since the Town's market data shows developed sites have substantially more value than undeveloped sites.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Michael F. Conklin, Esq., for the taxpayers; and Chairman, Selectmen of Lincoln.

Melanie Ekstrom, Deputy Clerk

Date:

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