

John J. and Catherine M. Mullahy

v.

Town of Goffstown

Docket No.: 8732-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's 1990 assessment of \$80,800 consisting of a condominium unit at Timberwood Condominiums, Map 3, Lot 37C-5-205 (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).

The Taxpayers argued the assessment was excessive because:

1) taxes have increased while the value of the unit has decreased by \$30,000;
and

2) the Property receives no town services (trash removal, snow removal).
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The Town argued the assessment was proper because:

- 1) comparables submitted show equity among other units;
- 2) sales data for 1987 and 1988 justify assessments as of 4/1/88, Town's revaluation date; and
- 3) the fact Taxpayers do not have Town services is not a cause for an abatement.

Board's Rulings

Based on the evidence, we find the Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers 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.

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

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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).

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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John J. and Catherine M. Mullahy, Taxpayers; and Chairman, Selectmen of Goffstown.

Dated: November 24, 1992

Melanie J. Ekstrom, Deputy Clerk