Gloria M. Brandano

v.

Town of Sandown

Docket No.: 8739-90

DECISION

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $107,000 (condominium only) on her real estate consisting of Unit 3 at 36 Tenney Road (the Property). The Taxpayer 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 Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved she was disproportionally taxed.

The Taxpayer argued the assessment was excessive because:
1) the Taxpayer's market analysis estimated the average suggested selling

price at $89,044, which is considerably less that the Town's 1990 assessment;

2) there are no "amenities" with the condominium development; and

3) there has been a dramatic decrease in property values from the revaluation year of 1989 to 1990.

The Town argued the assessment was proper because:

1) "A change in the market value of property is not necessarily... a valid reason for a change in the assessed value"; an abatement is warranted only if an assessed value is shown to be disproportionate to other properties in the taxing district; and

2) the amenities value is not necessarily for additional common facilities such as pools or tennis courts, but rather reflects the difference between the replacement cost of the building portion of the condominium and the purchase price.

The Board rules as follows:

The Town's methodology of attributing the residual market value (after subtracting out the replacement cost for the building) to an "amenity" value is proper. In this case, however, such value might more aptly be labeled as "site and any amenity value" to describe its analogous characteristic to "land" value for non-condominium types of property.

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32

(1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus

whether the assessment falls within a reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 119 N.H. 919.

The 1989 and 1990 coefficient of dispersions (C.O.D.) for the Town of Sandown are 9.54 percent and 10.19 percent respectively. An acceptable range for a C.O.D. (the average deviation from the median ratio) following a revaluation is generally 5 to 10 percent depending on the social and economic homogeneity of the property and real estate market.

The 1990 equalization ratio for the Town of Sandown, as determined by the Department of Revenue Administration, is 105%. Applying this ratio to the Taxpayer's assessment of $107,000, indicates a calculated market value of $101,905. This equalized market value is 14 percent more than the Taxpayer's average market value estimate of $89,044. While mindful that the Taxpayer's average estimate of $89,044 apparently is for a typical unit at Tenney Road while the Town's appraisals indicate some slight variation between units and while mindful that estimating market value is not an objective technical determination but rather subject to the whims of the marketplace and to the subjective interpretations of appraisers, the board rules the assessment would be more equitable and within a tighter range of the median if it is reduced another five percent.

The Town is to be commended for having analyzed the market and taking the initiative in lowering the assessments the first five percent. However, the Taxpayer's evidence, including photographs of the Property,

convinces the board that an additional five percent is warranted.

Therefore the board rules the proper assessment is $101,650.

If the taxes have been paid, the amount paid on the value in excess of $101,650 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

I certify that copies of the within decision have been mailed this date, postage prepaid, to Gloria M. Brandano, Taxpayer; and Chairman, Selectmen of Sandown.

Dated: November 15, 1991

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Melanie J. Ekstrom, Deputy Clerk