

#8800-90, Candace Balles

#8803-90, Gene Wells and Sylvia Wells

#8804-90, Brent Smith and Tammy Smith

#8798-90, Sandra Kinney

#8801-90, Robert Tremblay

#8802-90, Norman Levesque and Lisa Levesque

#8799-90, Phil Auclair

v.

City of Manchester

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, their "City's" 1990 assessments of \$14,520 on their condominium units at Scarlett-Dunbar (the Property). 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 better duplex units on their own land on nearby Emerald Street were taxed at \$400 to \$800 a year less.

The City argued the assessment was proper because:

- 1) the 1989 assessment to sales ratios of all seven units being appealed ranged 17.1 to 17.5 percent, while the City wide assessment was 18 percent; and
- 2) the taxpayers comparison to the Emerald Street is flawed as the assessments on those properties in 1990 were "at a partial level due to the various stages of construction".

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

The taxpayer's use of the Emerald Street properties as evidence of their own overassessment falls far short of their burden of proof. Not only do the assessments of the Emerald Street properties reflect their various stages of completion as of April 1, 1990, but the taxpayers submitted the sale of only one of those comparables. RSA 7 & 75:8 require that the assessors review property annually and appraise them as of April 1 of each tax year.

Even assuming, arguendo, that the Emerald Street properties were assessed as complete, the taxpayers evidence would only infer that the Emerald Street properties may be underassessed, not that the Scarlett-Dunbar Condominiums are overassessed. For the Board to reduce the taxpayers' assessments would be analogous to a weights and measure inspector sawing off the yard stick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them conform to the standard yardstick. The courts have held that in measuring tax burden, market value (or a relative level thereof) is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Candace Balles; Gene & Sylvia Wells; Brent & Tammy Smith;

Sandra Kinney; Robert Tremblay; Norman & Lisa Levesque; and Phil Auclair, taxpayers; and the Chairman, Board of Assessors of Manchester.

Melanie J. Ekstrom, Deputy Clerk

Date: March 13, 1992

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Scarlett Dunbar Condominiums

v.

City of Manchester

Docket Nos. 8798-90 thru 8804-90

ORDER

The taxpayer filed on April 2, 1992, a request for a reconsideration/rehearing in the above captioned cases. No reason was stated in the motion.

The board denies the motion as no basis was given for the request as required by the board's rules, TAX 201.05(d). The board's rules dealing with the entire appeal process were supplied to the taxpayers with the acknowledgement of their appeals in May of 1991.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Candace Balles, Gene & Sylvia Wells, Brent & Tammy Smith,

#8798-90 thru #8804-90, Scarlett Dunbar Condo's v. City of Manchester
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Sandra Kinney, Robert Tremblay, Norman & Lisa Levesque and Phil Auclair,
taxpayers; and the Chairman, Board of Assessors of Manchester.

Valerie B. Lanigan, Clerk

Date: April 9, 1992

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