

Joseph R. and Debra A. Gray

v.

Town of Carroll

Docket No.: 8883-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$155,200 on a condominium unit at Fairway Village in Bretton Woods (the Property). 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 proved the Property was disproportionately assessed.

The Taxpayers argued the assessment was excessive because:

- (1) the Property was purchased for \$126,600 in August, 1989;
- (2) the developer, Satter, went bankrupt one year later leaving most of the development unfinished;
- (3) location and view are taken into consideration when purchasing properties; and
- (4) the fair market value as of April, 1990 is \$126,600.

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The Town argued the assessment was proper because:

- (1) all of the condominium units were comparably assessed in the \$150,000-\$155,000 range in 1990 based on comparable sales;
- (2) foreclosure on the developer, Satter, occurred in late 1990 and values began to decline at that point; and
- (3) as of April, 1991 the Town has decreased all values in the complex by 15% but no adjustment was justified for the 1990 tax year.

#### Board's Rulings

Based on the evidence, we find the correct assessment should be \$126,600. This assessment is ordered because the Taxpayers testified the Property's purchase price was \$126,600 in August, 1989. While this is some evidence of the Property's market value, it is not conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). However, where the Taxpayers demonstrated the sale was an arms-length market sale, the sales price is one of the "best indicators of the Property's value." See Appeal of Lakeshore Estates, 130 N.H. 504, 508 (1988). Additionally, the comparables support this lowered assessment.

The board did not accept the Town's position because we find that as of April, 1990, the values in this development were already on the downswing. The evidence was that the developer had stopped the work in the spring of 1990. Moreover, the Taxpayers testified the developer's problems existed in

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1989. Additionally, the Town did not show what adjustments were made due to location within the complex when the Taxpayers testified location was a factor in the values due to views.

If the taxes have been paid, the amount paid on the value in excess of \$126,600 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph R. and Debra A. Gray, Taxpayers; and Chairman, Selectmen of Carroll.

Dated: October 5, 1993

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Valerie B. Lanigan, Clerk