

Mildred Rent

v.

Town of Bristol

Docket No.: 9007-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$255,500 (land, \$154,400; building, \$101,100) on condominium with common land on Newfound Lake (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(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).

We find the Taxpayer carried this burden and proved she was disproportionately taxed.

The Taxpayer argued the assessment was excessive because she bought the Property for \$255,000 in November 1988, but the price was based on the

assumption that the condominium development would be finished by the developer. Specifically, the developer has not finished the road and driveways, lit the walkways, or completed the landscaping.

The Town argued the assessment was proper because:

- 1) it was consistent with the 1988 purchase price;
- 2) the failure to complete the development gives Taxpayer greater use of the lake lot; and
- 3) recent market event should not be considered.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$229,950 (land \$138,960 and building \$90,990). This assessment is ordered because some adjustment must be made to reflect the adverse effect the unfinished development has on the Property's market value. Clearly, the Taxpayer's 1988 purchase price was based on the assumption that the development would be completed. The development was not completed, which decreased the Property's market value.

Again, we must address the Town's misconception that the board should not focus on 1990 but on 1988. The Town must annually review its assessments and adjust those that have declined or increased more in value than values generally changed in the Town. RSA 75:8 states:

The assessors and selectmen shall, in the month of April in each year, examine all the real estate in their respective cities and towns, shall reappraise all such real estate as has changed in value in the year next preceding, and shall correct all errors that they find in the then existing appraisal \*\*\*.

See also, 73:1, 73:10, 74:1, 75:1. As stated in Appeal of Net Realty Holding Trust, 128 N.H. 795, 799 (1986), a fair and proportionate tax can only be

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achieved through a constant process of correction and adjustment of assessments. In yearly arriving at an assessment, the [Town/City] must look at all relevant factors. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975). The board has reduced the assessment to account for this decrease. While the actual value might be lower, the Taxpayer did not present sufficient evidence to warrant further adjustment.

If the taxes have been paid, the amount paid on the value in excess of \$229,950 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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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

I hereby certify that copies of the foregoing decision have been mailed this date, postage prepaid, to Mildred Rent, Taxpayer; and Chairman, Selectmen of Bristol.

Dated:

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Melanie J. Ekstrom, Deputy Clerk