

John F. Cook

v.

Town of Holderness

Docket No.: 9510-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$180,200 on Map 3C.13-7 consisting of a condominium at Westwinds development on Squam Lake (the Property). The Taxpayer also owns but did not appeal another property identified as map 7 lot 48. 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 met that burden of proof and showed disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the property was formally a rental unit and was the first cottage condominium conversion on Squam Lake at the time of the reassessment;
- (2) because it was the only conversion in Holderness, other developments in other towns need to be analyzed;

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- (3) an appraisal conducted in May of 1993 estimated a value at \$125,000;
- (4) the total value of all the unit's amenity value exceeds value of comparable property;
- (5) all units in Westwinds should have the same amenity value assessed to them;
- (6) the Maloney unit, which is a year-round three bedroom house at Westwinds, is assessed the same as a one bedroom cottage on the front tier of the complex;
- (7) there are no comparables to the Taxpayer's unit because it is only a one-bedroom unit without any deck;
- (8) the unit was listed for sale in 1991 for first \$169,000 and then \$159,000 without any offers being made; and
- (9) the Maloney sale was possibly made under duress as the sellers needed to move.

The Town argued the assessment was proper because:

- (1) there is significant market difference between the front tier sales and the rear tier units;
- (2) the amenity value was derived by subtracting the building values from the sales of the front and rear tier units; this calculation indicated a difference of approximately \$60,000 which is accounted for by the amenity condition factor; and

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(3) there was another waterfront condominium conversion in Holderness at the time of the reassessment known as Vinga Court; sales of front and rear units at Vinga Court showed a similar relationship of value as exhibited at Westwind.

Board's Rulings

The board finds the Town's analysis of the sales and their general methodology of valuing the units to be reasonable. However due to the very small size and utility of this unit, the board finds a -10% adjustment should be made to reflect these factors on its market value.

If the taxes have been paid, the amount paid on the value in excess of \$162,180 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c and board rule Tax 203.05, the Town shall also refund any overpayment for 1992, and until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John F. Cook, Taxpayer; and the Chairman, Selectmen of Holderness.

Dated: October 21, 1993

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Valerie B. Lanigan, Clerk