

**Leo B. and Pauline J. Sanfacon**

**v.**

**Town of Holderness**

**Docket No.: 9511-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$178,700 on Map 3C.13-8, consisting of a condominium at Westwind development on Squam Lake (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to meet their burden to show 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;
- (3) an appraisal, conducted in May of 1993, estimated a value at \$125,000;

- (4) the total of all the units' amenity value exceeds value of comparable properties;
- (5) the market value, on April 1, 1990, should have been \$130,000; and
- (6) all units in Westwind should have the same amenity value assessed to them.

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 each which is accounted for by the amenity condition factor; and
- (3) there was another waterfront condominium conversion in Holderness at the time of the reassessment known as Vinga Court. Comparing the front units to the rear units at Vinga Court showed a similar relationship of value as demonstrated at Westwind.

#### Board's Rulings

Based on the evidence, the board finds the sales of Westwind units support the assessment on the subject Property. Conversion of single ownership to multi-ownership (condo-conversion) creates value by virtue of the creation of multiple "bundles of rights" (i.e., the right to rent, to sell, to leave to heirs, to use for collateral, etc.). The fact that condominiums in other towns are valued by a different method does not necessarily mean that the Avitar method is improper if used consistently within a given

jurisdiction.

Leo B. and Pauline J. Sanfacon v. Town of Holderness  
Docket No.: 9511-90  
Page 3

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayers asserted the Town overassessed the "amenities" associated with this condominium unit. Specifically, the Taxpayers argued the condominium complex had limited amenities. Answering the Taxpayers' assertion requires explaining the "amenity" assessment. The "amenity" assessment is calculated by determining the replacement cost of the unit and subtracting the cost from sales prices. The remaining value is called the "amenity" value. This "amenity" value captures all tangible and intangible features of the unit and of the complex, including locus or situs desirability and marketability, common land, improvements such as roads, landscaping, lighting, parking, utilities, site work and if present, recreational facilities.

Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller units than for larger units, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The

motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

Leo B. and Pauline J. Sanfacon v. Town of Holderness  
Docket No.: 9511-90  
Page 4

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

---

George Twigg, III, Chairman

---

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Leo B. and Pauline J. Sanfacon; and the Chairman, Selectmen of Holderness.

Dated: January 11, 1994

---

Valerie B. Lanigan, Clerk