

Russell L. and Sylvia M. Sherriff

v.

City of Laconia

Docket No.: 9950-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$123,200 on a condominium unit in the Pier III Condominiums (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 prove disproportionality .

The Taxpayers argued the assessment was excessive because:

- (1) based on the Taxpayers' analysis that was submitted to the board, condominiums were assessed at a higher percentage than noncondominium properties in the City, requiring a reduction in the assessment; and
- (2) the Taxpayers bought the Property in March 1990 for \$85,000.

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The City argued the assessment was proper because:

- (1) in 1989-90 the building underwent substantial renovations;
- (2) the Taxpayers' purchase was not a fair market sale because of sellers' financial status and the status of liens on the Property and because the Property was not exposed to the market; and
- (3) based on other condominium sales, the \$85,000 purchase price was not a fair market sale (The City's evidence included sales of two-bedroom units with similar amenities--to show the market value of two-bedroom units--and sales of \$85,000-range units--to show that \$85,000 units were far inferior to the Property.)

The City, under board questioning, stated the condominium values fell more rapidly than the general market, but other values also fell rapidly in other segments. The City concluded the assessment was still reasonable.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to carry their burden, and the appeal is denied.

The board does not accept the Taxpayers' report for the following reasons:

- (1) the report used non-1990 sales and non-1990 assessments;
- (2) the sales were not verified with the buyer or seller to determine whether the sales were arms-length and fair-market sales;
- (3) at least one sale was a bank/auction sale;
- (4) the report assumed, without any informed basis, condominiums made up

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20% of the real estate in the City; and

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(5) the assessment-to-sales ratios for the City's comparables indicated at least for some condominiums the values dropped at the same rate as values in other segments of the market.

The board also concludes the Taxpayers' purchase was not fair market value because:

(1) the seller sold under economic duress because the bank was going to auction the Property; and

(2) the Property was not sold on the open market.

Based on the above, we find the Taxpayers did not carry their burden.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Russell L. and Sylvia M. Sherriff, Taxpayers; and Chairman, Board of Assessors, City of Laconia.

Dated: March 30, 1994

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Valerie B. Lanigan, Clerk