Daniel A. Salvucci, Jr.

v.

Town of Northfield

Docket No.: 11202-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of $80,400 consisting of condominium unit #2 at Highland Condominiums (the Property). For the reasons stated below, the appeal for abatement is denied.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry his burden.

The Taxpayers argued the assessment was excessive because:

(1) no comparable sales took place at Highland Condominiums between October 1988 and December 1990 and there are no other condominiums in the Town;

(2) Phase I resales ranged from $30,000 to $48,000 during 1991;

(3) Highland Condominiums have decreased in value at a significantly higher percentage than single family homes;

(4) no Phase I unit has ever sold above $88,400; and

(5) in 1993, the Town has reduced the assessment to $57,900.

The Town argued the assessment was proper because:

(1) the sales are distressed sales, not arm's length transactions, not used to establish the ratio;

(2) distressed sales represent approximately 70-75% of fair market value; and

(3) the equalization ratio when applied to the Property is fair.

Board's Rulings

In arriving at its decision, the board has taken official notice of all of the 1991 Highlands Resort Condominiums cases before it which were heard on July 21, 1995. The board has also considered the evidence submitted in Docket No. 11148-91PT & 13418-92PT, Frank G. & Anne K. Antonelli v. Town of Northfield which was scheduled for an expedited decision.

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed. It is clear that values on different types of properties fluctuate at different rates. Here, condominium units have dropped faster in value than other properties in the Town. The Town knows that it must annually review its assessments and adjust those that have declined more in value than values generally in the Town. See RSA 75:1, RSA 73:1. In yearly arriving at an assessment, the Town must look at all relevant factors. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975). Certainly, the generally declining condominium market and specifically this development's bank sales should have been and were considered by the Town.

"It has been said that `[t]he search for `fair market value´ is a snipe hunt carried on at midnight on a moonless landscape.´" Fusegni v. Portsmouth Page 3

Housing Authority, 114 N.H. 207, 211 (1974) (citations omitted). This snipe hunt has been made more difficult by the occurrence of bank sales and bank-related sales. Moreover, in valuing, property judgement is the touchstone. Public Service Co. v. Town of Ashland, 117 N.H. 635, 639 (1977). Bank sales are not by definition arm's length transactions and require some adjustment because banks are not your typically motivated sellers and because the board has consistently seen, both through its own studies and the studies of others, that bank sales typically sell for less than market sales. An adjustment of 15% (85% of the market value) would result in a range of values of the sales of $58,700 to $75,300.

Neither party challenged the Department of Revenue Administration's equalization ratio of 124% for the 1991 tax year for the Town of Northfield. The Property's equalized value is $64,800. This value falls well within the indicated range above. Therefore, the board finds no abatement is warranted.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) 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 in 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 Page

limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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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 Daniel & Joseph Salvucci, Taxpayers; and Chairman, Selectmen of Northfield.

Dated:August 30, 1995

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Valerie B. Lanigan, Clerk

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