

**Maurice J. Goyette**

**v.**

**Town of Belmont**

**Docket No.: 11569-91PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" following 1991 assessments of two condominium units in the Tioga View Project: \$106,700 (land, \$20,000; building, \$86,700) Unit #7 and \$121,300 (land, \$20,000; building, \$101,300) Unit #8 (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 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 this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the assessments were disproportional and did not reflect the fair market value;

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2) independent appraisals by the bank and real estate professionals appraised Unit 7 in the low \$60,000 range and Unit 8 in the \$70,000 range; and  
3) units 2, 4 and 5 were purchased in January, 1993 for \$50,000, \$50,000 and \$59,000.

The Town argued the assessment was proper because:

1) declining values since the 1989 revaluation is not a valid reason to reduce the assessment; and  
2) the Taxpayer has not met his burden of proof.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessments were proper. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. In this case, the board placed no weight on the inspector's report.

#### Board Findings

The board finds the Taxpayer failed to prove the Property was disproportionately assessed. The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This

value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding

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Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. The Taxpayer stated units 2, 4 and 5 sold for \$50,000, \$50,000 and \$59,000 in January, 1993, but failed to indicate whether the sales were arms-length transactions, how long the properties had been on the market and if they had been actively advertised. Further, the assessment under appeal is as of April 1, 1991 and the sales were not time adjusted to that date.

The Taxpayer stated real estate professionals estimated values in the \$60,000 to \$70,000 range but provided no documentation to support their positions. The board does not blindly accept value opinions without any supportive material.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Maurice J. Goyette, Taxpayer; Chairman, Selectmen of Belmont.

Dated: November 19, 1993

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Melanie J. Ekstrom, Deputy Clerk

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