

Ronald M. and Vivian F. Chaput

v.

City of Laconia

Docket No.: 12290-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1991 assessment of \$197,200 on a condominium unit in Rocky Ledge Shores Condominiums (the Property). The Taxpayers also own, but did not appeal, three other properties in the City. 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 carry their burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the unit is just under 1,000 square feet, is below grade at the front of the building, and has a high noise level due to its location;
- (2) the amenities value is high compared to other condominium complexes with similar amenities;

- (3) a median factor of 1.148 was found based on a review of other condominium complexes; and
- (4) the assessed value should be \$167,500.

The City argued the assessment was proper because:

- (1) two sales in the complex support the assessment;
- (2) there was a rapid decline in the market from 1990 to 1991 and, therefore, only the Taxpayers' sales for 1991 ratio should be reviewed; these sales indicate a median of 1.293 and the overall ratio was 1.27;
- (3) the sales presented by the Taxpayers were not a random sampling;
- (4) the amenities value is actually a site and amenity value determined by sales, and the value can be different within the same complex and different from complex to complex;
- (5) every unit has the availability of a boat slip, which is included in the site and amenity value; and
- (6) based on the evidence, the Property was fairly and equitably assessed and no adjustment should be made.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove disproportionality. The Taxpayers asserted the City overassessed the "amenities" associated with this condominium unit. 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

and marketability, common land, improvements such as roads, landscaping, lighting, parking, utilities, site work and if present, recreational facilities.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and amenities and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). However, the existing assessment process allocates the total value between amenities and building value. The board finds, based on the market evidence presented, that the total assessed value of the Property, when equalized by the department of revenue administration's ratio for the 1991 tax year ($\$197,200 \div 1.27 = \$155,275$), was not disproportionate. Therefore, the request for abatement is denied.

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

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Ronald M. and Vivian F. Chaput, Taxpayers; and Chairman, Board of Assessors, City of Laconia.

Dated: August 15, 1995

Valerie B. Lanigan, Clerk

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