

Crystal Bay Development Inc.

v.

Town of Antrim

Docket No.: 14617-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessments on 11 "Properties," consisting of approved and constructed condominium units and approved but unconstructed condominium units. The assessments under appeal are as follows.

Unit #	Land Assess.	Bldg. Assess.	Total Assess.
4	\$15,000	\$61,200	\$76,200
5	\$15,000	\$66,500	\$81,500
6	\$15,000	\$68,400	\$83,400
7	\$15,000	\$69,600	\$84,600
8	\$15,000	\$45,800	\$60,800
9	\$15,000	\$46,400	\$61,400
10	\$15,000	0	\$15,000
11	\$15,000	0	\$15,000
12	\$15,000	0	\$15,000
13	\$15,000	0	\$15,000
14	\$15,000	0	\$15,000

Total	\$165,000	\$357,900	\$522,900
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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 assessments were 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 did not carry its burden and prove disproportionality.

The Taxpayer argued the assessments were excessive because:

- (1) the Taxpayer purchased the Properties at an October 1992 foreclosure auction for \$250,000;
- (2) the assessment-record cards included some errors;
- (3) they exceeded the values as shown by the other lake sales and as voiced by other real estate professionals; and
- (4) the total assessment should be \$10,000 per unit on the vacant sites and \$60,000 to \$65,000 per unit on the developed sites.

The Town argued the assessments were proper because:

- (1) the land assessments were consistent with other land assessments in the Town;
- (2) the building assessments were calculated the same way as other building assessments were in the Town;
- (3) the Taxpayer's analysis used sales from other lakes; and

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(4) one of the units sold in November 1994 for \$70,000, and in February 1994, the Taxpayer and another unit owner swapped units with the Taxpayer paying \$98,000 to the other owner and the other owner paying the Taxpayer \$129,000.

Board's Rulings

Based on the evidence, the board finds the Taxpayer did not show overassessment for the following reasons.

1) The Taxpayer presented insufficient information about the Properties' market value.

2) The Taxpayer's purchase was at foreclosure, which does not qualify as a market sale. The board did not accept the Taxpayer's analysis of other condominium sales because the Taxpayer performed a very broad brush comparison without demonstrating how the comparables compared to the Properties and without making any adjustments for differences between the comparables and the property. Additionally, the Taxpayer overrelied on conclusory statements about whether the values were appropriate or not.

3) The Taxpayer's assessment analysis similarly did not show overassessment. The comparables were smaller, older and inferior to the Properties. The board could not find, based on the assessment analysis, that the Properties were overassessed.

The board will admit that determining a value for these Properties is difficult given the lack of condominium sales in the Town and given the difficulty with valuing the unbuilt condominium units. The Town presented

minimal information for the board to rely upon, but the Town indicated that the same assessment methodology was used throughout the Town, which is evidence of proportionality.

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Finally, there was information about three sales that occurred in this development, but they all occurred after the April 1, 1993 assessment date. Two of the sales -- unit 1 and unit 7 -- were actually sales between a unit owner and the Taxpayer, and those sales involved a swap plus payment. The final sale -- unit 6 -- sold in November 1994, over a year and a half after the April 1, 1993 assessment date for \$70,000. (Unit 6's 1993 assessment was \$83,400.) Unit 6's 1994 assessment was \$87,000, but the equalization ratio was 1.24, indicating a 1994 equalized value of \$70,160, which was consistent with the 1994 sale.

In the final analysis, while the board had some questions about the accuracy of the assessments, the board could not conclude that the Taxpayer had shown disproportionality or had shown what the correct assessments should have been. The board therefore denies the appeal.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration 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 reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration 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 reconsideration motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the reconsideration motion. RSA

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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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to James T. Minichiello, Taxpayer's representative; and Chairman, Board of Selectmen of Antrim.

Date: November 14, 1995

Valerie B. Lanigan, Clerk

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