

Lawrence Zalcman

v.

Town of Thornton

Docket No.: 14763-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$73,400 on a residential condominium unit (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.

The Taxpayer argued the assessment was excessive because:

- 1) the assessments are based on the 1989 values with some slight reductions;
- 2) an analysis of assessed value to actual selling price and second home sales demonstrated condominiums are assessed disproportionately; and

3) a fair market value as of April 1, 1993 would be \$54,000 based on 3 sales in 1993 and 1 sale in 1994.

The Town argued the assessment was proper because:

- 1) the Taxpayer's unit is assessed lower than all other units; and
- 2) it is in line with other assessments and is not overassessed.

BOARD FINDINGS

Based on the evidence, we find the Taxpayer failed to prove the Property was disproportionately assessed. Assessments must be based on market value. See RSA 75:1. Due to market fluctuations, assessments may not always be at market value. A property's assessment, therefore, is not unfair simply because it exceeds the property's market value. The assessment on a specific property, however, must be proportional to the general level of assessment in the municipality. In this municipality, the 1993 level of assessment was 148% as determined by the department of revenue administration's equalization ratio. This means assessments generally were higher than market value. The Property's equalized assessment was \$49,600 ($\$73,400 \text{ assessment} \div 1.48 \text{ equalization ratio}$). This equalized assessment should provide an approximation of market value. To prove overassessment, the Taxpayer would have to show the Property was worth less than the \$49,600 equalized value. Such a showing would indicate the Property was assessed higher than the general level of assessment. In this case, the Taxpayer argued the market value of the Property was \$54,000 which is more than its equalized value. Therefore, no abatement is warranted.

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

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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. This, 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 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 that a copy of the foregoing decision has been mailed this date, postage prepaid, to Lawrence Zalcman, Taxpayer; and Chairman, Board of Selectmen.

Date: May 10, 1996

Valerie B. Lanigan, Clerk