

Zoes J. Dimos

v.

Town of Bedford

Docket No.: 15132-94PT

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$98,600 (land \$25,000; buildings \$73,600) on a condominium unit in the Ridgewood Condominium Complex (the Property). The "Complex" consists of seven courtyards, each with several buildings, and a total of 142 units. 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 granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) the equalized assessment should be \$82,000 based on sales of similar units

in 1994;

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- (2) the Town's assessment of units in the Complex failed to consider differences in value and features;
- (3) based on a market analysis, the average selling price of similar units was \$69,305 in 1994;
- (4) the assessment-to-sales ratios vary significantly throughout the Complex when the ratios should be consistent;
- (5) only four sales were used in the analysis because they were the only true comparables and occurred closest to the April 1, 1994 assessment date;
- (6) the oil heat was installed in 1987 per the Town's October 16, 1987 permit, and the oil heat is shown on the assessment-record card; and
- (7) the Town's 1995 sales occurred after the April 1, 1994 assessment date, and condominium values were still declining.

The Town argued the assessment was proper because:

- (1) the Taxpayer's market analysis was flawed because he used only selective sales (one was a bank sale), omitted comparable sales, and his adjustments were not reflective of market value;
- (2) the 1994 assessment should have been \$101,200 to reflect the central oil heat in the Property;
- (3) sales in 1994 and 1995 supported the Property's assessment and comparable units' assessments were equitable with the Property's assessment; and
- (4) if the correct 1994 assessment (\$101,200) is divided by \$83,000 (the value for the Property as supported by a sales analysis), the ratio is 122%, which would be within range of the revenue department's 115% ratio for the Town.

The board's inspector, reviewed the property-assessment card, reviewed the parties' briefs and filed a report with the board. In this case, the inspector only reviewed the file; he did not perform an on-site inspection. The board's inspector suggested an abatement. (See Table below for value range.) 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.

**BOARD'S RULINGS**

Based on the evidence, the board finds the proper assessment should be \$87,400, which equates to a \$76,000 market value.

It is essential to remember that valuing property is not a precise science. This is especially true when valuing condominiums during the transitional market that followed the substantial downturn in condominium values. The board has reviewed the parties' briefs and rebuttals, the board's inspector's report and the parties' responses to that report. The ordered assessment is based on the board's market value conclusion, which was arrived at after reviewing all of the parties' information. The following chart summarizes the value ranges presented to the board in this case and another case.

	<b>Dimos</b>	<b>Strasser</b>
Review Appraiser	\$69,000 to \$72,900	\$69,900 to \$76,400
Town	\$77,400 to \$76,900	\$75,500 to \$79,000

Taxpayer	\$72,800	\$71,300
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Based on this information, the board has made a market value finding of \$76,000, which equates to an \$87,400 assessment.

If the taxes have been paid, the amount paid on the value in excess of \$87,400 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05 (copy attached), unless the Town has undergone a general reassessment, the Town shall also refund any overpayment for 1994 and 1995. RSA 76:17-c allows the Town to adjust these ordered assessments when a good-faith basis exists. The Town submitted sales that indicated the market for these condominiums improved in tax year 1996. Therefore, for tax years 1996 and thereafter, the Town could use the sales to make good-faith adjustments to the ordered assessments. If the Taxpayer disagrees with the Town's adjustment in 1996, the Taxpayer can file a motion under TAX 203.05 (j). The Taxpayer should, however, be aware that the board's review would be limited to whether the Town had a good-faith basis to adjust the ordered assessment. Recent sales generally provide a good-faith basis.

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

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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

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Ignatius MacLellan, Esq., Member

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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 Zoes J. Dimos, Taxpayer; and Chairman, Selectmen of Bedford.

Date: August 2, 1996

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Valerie B. Lanigan, Clerk

Zoes J. Dimos

v.

Town of Bedford

Docket No.: 15132-94PT

and

Allen E. & Patricia E. Strasser, Jr.

v.

Town of Bedford

Docket No.: 15385-94PT

ORDER

Following review of the file, the board had its inspector review the Property. His report is included with this order. If the parties have any comment to the report, they shall file those comments within 20 days of the clerk's date below. When the 20 days has run, the board will issue the decision.

The parties are also advised to see if the report can be used to resolve this appeal through settlement.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Valerie B. Lanigan, Clerk

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Strasser v. Town of Bedford  
Docket Nos.: 15132-94PT & 15385-94PT

Certification

I hereby certify that the foregoing order has been mailed, postage prepaid to Zoes J. Dimos, Taxpayer; Allen E. & Patricia E. Strasser, Jr., Taxpayers; and the Chairman, Selectmen of Bedford.

Date: June 6, 1996

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Valerie B. Lanigan, Clerk

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