

**Patricia M. Welch**

**v.**

**Town of Goffstown**

**Docket No.: 17831-98PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1998 assessment of \$140,600 (building only) on a residential condominium (the "Property"). 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 a disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayer must show that the Property's assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayer failed to prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property does not have a significantly better view than other properties in the development and should not have been given a \$22,000 view amenity assessment;
- (2) there are some inaccuracies in the building description on the assessment-record card;

- (3) the Taxpayer was not a typically motivated buyer; and
- (4) several other condominiums in the same development are incorrectly assessed or underassessed due to inaccurate information on the assessment-record cards.

The Town argued the assessment was proper because:

- (1) the view assessment was actually \$4,000 and reflected the superior view from the Property given its high elevation in the development;
- (2) some adjustments to the Property's assessment were made reflecting the lack of a fireplace, correcting the number of rooms, and adding a one-half bathroom;
- (3) an assessment-to-sales ratio study for condominiums in the town indicates the Property is not overassessed;
- (4) some of the other properties in the development were built at different times and at different elevations accounting for the variations in assessed values; and
- (5) the purchase price is a good indicator of market value for the Property.

### **Board's Rulings**

Based on the evidence, the board finds the Taxpayer did not prove that the Property was disproportionately or illegally assessed.

The Taxpayer asserted the Town had arbitrarily placed a \$22,000 view amenity assessment on the Property. The Taxpayer provided photographs of several different views from throughout the development (Taxpayer Exhibit #2). The board finds the Taxpayer's view is superior to those exhibited in the photographs for units # 43 and # 21. While these other two units had some views, it was clear from the pictures, taken during the winter, that when the trees

in the pictures were in full bloom the views would be restricted for those units. The view from the Property would not have this restriction due to the raised elevation of the Property's location and the fact that the viewer could look across the tops of the trees for a substantial distance. Further, the Town testified that only \$4,000 of the \$22,000 assessment in question was attributed to the view and the remaining \$18,000 was the Taxpayer's share of the common land assessment in the condominium development. The board finds the application of a \$4,000 view assessment for the Property is not inappropriate and the assessment reflects the superior location of the Property.

The Taxpayer stated the Town's data on the assessment-record card was inaccurate as the room count was too high and a fireplace assessment had been added when no fireplace was present. The Town revised the card to reflect the lack of a fireplace and a different room count, however, the Taxpayer was still dissatisfied with the description of the dwelling. The board finds the Town's actions to revise the assessment-record card to reduce the number of bedrooms, delete the assessment for a fireplace and to capture the value of the half-bathroom, more accurately reflects the condition of the Property and needs no further revision. While the Taxpayer raised concerns about these errors in the assessment, the Taxpayer did not show these errors resulted in disproportionately. "Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellants." Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985), quoting Amoskeag Manufacturing Co. v. Manchester, 70 N.H. 200, 205 (1899).

Initially, the Taxpayer testified that when she purchased the Property she was a highly-

motivated buyer inasmuch as several of her friends lived in the development and she wanted to be near them. She especially liked the Property that was for sale and probably overpaid for the Property as she was afraid it was going to be sold to a different buyer who was competing with her. In order to be sure that she was able to purchase the Property, she stated she paid the full asking price as listed by the selling broker and did not negotiate. For this reason, the Taxpayer feels the purchase price is not a good indication of the Property's market value and should not be considered in the assessment. The board reviewed the equalized assessment of the Property of \$144,000 (  $\$139,700 \div .97 = \$144,000$  rounded) and finds the equalized assessment, including the view factor, is \$5,000 below the purchase price the Taxpayer paid for the Property. This may be some indication that the Taxpayer did overpay for the Property, however, the sale price is frequently a good indicator of value unless proven otherwise. The board finds that even if the view amenity was to be revised or removed, the total equalized assessment, including any view charge, is less than the selling price by approximately \$5,000.

The Taxpayer stated that several other similar condominiums in the same development had inconsistent assessments when compared to each other due to inaccurate information on the assessment-record cards and stated that several of these other units had assessments that were too low. The underassessment of other properties does not prove the overassessment of the Taxpayer's Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., id. Assessments must be based on market value. RSA 75:1. The Taxpayer did not present any

evidence relative to the market value of the other condominiums in the development.

In support of the assessment, the Town performed an assessment-to-sale-price ratio comparison (Municipality Exhibit A, items 3, 4 and 5) and included the comparison with the department of revenue administration's (DRA) stratified analysis of ratio study for the Town for 1998. Both the Town's comparison and the DRA's findings show the Taxpayer's Property is consistently assessed when compared to the assessments of other residential condominiums in the Town.

For the above reasons, the board finds the Taxpayer is not overassessed and the appeal 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 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

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

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**Certification**

I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to Patricia M. Welch, Taxpayer; and Chairman, Board of Selectmen of Goffstown.

Date: February 28, 2000

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Lynn M. Wheeler, Clerk

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