

**Lisa Beaudry**

**v.**

**Town of Hampton**

**Docket No.: 18242-99PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1999 assessment of \$111,500 on a residential condominium (the "Property"). For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying a disproportionate share of taxes. See RSA 76:16-a; TAX 201.27(f); TAX 203.09(a); Appeal of City of Nashua, 38 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayer must show 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) there are other identical units (#47 & #108) in the Dunvegan Woods condominium complex with lower assessments;
- (2) some of the units in the complex have been modified while their assessments have not been

adjusted to reflect the modifications; and

(3) the Town did not inspect the Property or any of the other properties in the complex after the appeal was filed.

The Town argued the assessment was proper because:

(1) sales data of other properties in the development suggests the Property is properly assessed given its market value and the Town's 1999 equalization ratio of .92;

(2) the Town does periodic updates and strives to correct inaccurate data on any properties when inconsistencies are brought to its attention; and

(3) given the Property's finished basement, extra bathroom and view, the current assessment is the proper assessment.

### **Board's Rulings**

Based on the evidence, the board finds the Taxpayer did not carry her burden to show the Property was disproportionately assessed.

Assessments must be based on market value. See RSA 75:1. The assessment on a specific property must be proportional to the general level of assessment in a municipality. The Town's 1999 level of assessment was 92%, as determined by the department of revenue administration. This means assessments were generally lower than market value. The Property's equalized assessment was approximately \$121,200 ( $\$111,500 \div .92$ ). The Taxpayer testified that \$121,000 was a good estimate of the market value of the Property as of April, 1999. To prove

overassessment, the Taxpayer would have to show the Property was worth less than \$121,000.

The Taxpayer made no such showing.

The Taxpayer also testified her assessment increased more than the assessments of other comparable properties in the Dunvegan Woods development between 1996 and 1999. Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985). She also testified that some units with finished basements were not assessed for the basement even though her assessment reflected a value for a finished basement. The underassessment of other properties does not prove the overassessment of the Taxpayer's Property. See Appeal of Michael D. Cannata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayer's assessment because of underassessment on other properties would be analogous to a weights and measures inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. 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.

The Town submitted a list of several sales that occurred in the Dunvegan Woods condominium development and selected four of the sales for direct comparison to the Property. The four sales occurred within eight months of the April 1, 1999 assessment date. After adjusting the sales for time appreciation and any dissimilarities between the sales and the Property, the adjusted sale prices gave a good indication of the Property's market value and showed the Property was not overassessed.

While the Town acknowledged there may be some inaccuracies in the assessments of other similar units in the development, the Town has, for subsequent tax years, corrected those assessments it was aware of and will continue to correct assessments when appropriate that are brought to their attention.

For the reasons previously stated, the board finds the Taxpayer did not carry her burden of showing the Property was disproportionately assessed.

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

**CERTIFICATION**

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I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to: Lisa Beaudry, Taxpayer; and Chairman, Selectmen of Hampton.

Date: April 24, 2001

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Lynn M. Wheeler, Clerk

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