

Soo-Nipi Lodge, Inc.

v.

Town of New London

Docket No. 5200-88

DECISION

A hearing in this appeal was held, as scheduled, on May 11, 1990. The Taxpayer was represented by James C. Cleveland, Esq. The Town was represented by David W. Bolton, Appraiser from M.M.C., Inc., R. Peter Bianchi, Selectman, Frederick Welch, Town Administrator, and April Whittaker, Selectmen's Secretary.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$107,900 (land only) placed on its real estate located on Lake Sunapee and identified as Map 126, Lot 8. The Taxpayer also owns, but is not appealing, two other parcels: Map 127, Lot 1, assessed for \$843,800 (land, \$522,800; buildings, \$321,000), and Map 127, Lot 2, assessed for \$177,600 (land only).

Neither party challenged the Department of Revenue Administration's equalization ratio of 98 percent for the 1988 tax year for the Town of New London.

Mr. Cleveland testified that the property was an old 20-foot right-of-way that had provided access to an old steamship-landing wharf on Lake Sunapee. He argued that the right-of-way was heavily wooded and, while it had value as providing access to the lake, it was not worth the assessed

He further argued that the Town's reduction of the initial assessment of \$217,000 to the value being appealed (\$107,900) substantiated his claim that the Town did not know what the proper market value of the property was.

Mr. Bolton recommended that the condition factor on the land-area calculation be reduced to 100 to be comparable with the appraisal of an abutting 25-foot right-of-way. He argued that the resulting value of \$47,200 reflected its value as access to the lake.

The Board rules as follows.

The Taxpayer's appeal is based on The Constitution of New Hampshire, Part 2, Article 5, which states in part:
And further, full power and authority are hereby given and granted to the said general court, from time to time . . . to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within, the state; and upon all estates within the same

and RSA 75:1 (supp) which states:
Except with respect to open space land appraised pursuant to RSA 79-A:5, and residences appraised pursuant to RSA 75:11, the selectmen shall appraise all taxable property at its full and true value in money as they would appraise the same in payment of a just debt due from a solvent debtor, and shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

"The relief to which [the taxpayer] is entitled is to have its property appraised for taxation at the same ratio to its true value as the assessed value of all other taxable estate bears to its true value. Boston & Maine R.R. v. State, 75 N.H. 513, 517; Rollins v. Dover, 93 N.H. 448, 450." Bemis v. Claremont, 98 N.H. 446, 452 (1954).

It is well established that the taxpayer has the burden of demonstrating that he is disproportionately assessed. Lexington Realty v. City of Concord, 115 N.H. 131 (1975), Vickerry Realty v. City of Nashua, 116 N.H. 536 (1976), Amsler v. Town of South Hampton, 117 N.H. 504 (1977), Public Service v. Town of Ashland, 117 N.H. 635 (1977), Bedford Development v. Town of Bedford, 122 N.H. 187 (1982), Appeal of Town of Sunapee, 126 N.H. 214 (1985), Appeal of Net Realty Holding, 128 N.H. 795 (1986).

The Board rules that the Town's recommended revisions are reasonable, given the right-of-way status of the property and the contributory value it could have to property having no access to the lake.

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is \$47,200.

If the taxes have been paid, the amount paid on the value in excess of \$47,200 is to be refunded with interest at six percent per annum from date of payment to date of refund.

June 1, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to James C. Cleveland, Esq., Taxpayer's Counselor, to the Chairman, Board of Selectmen, Town of New London, and the David W. Bolton, M.M.C., Inc.

Michele E. LeBrun, Clerk

June 1, 1990