

Francis K. and Sophie M. Rogers

v.

Town of Sandown

Docket Nos.: 5887-89 and 8168-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$68,300 (land, \$49,500; buildings, \$18,800) and \$65,800 (land, \$47,000; buildings, \$18,800), respectively, on a 14,375 square foot lot with a seasonal camp located on Lemyjoma Trail (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessments were excessive because:

- (1) the building is tiny (28 ft. x 28 ft.), has insulated walls, but ceiling, roof and floors are not insulated;
- (2) the Property was on the market from 1988 to 1991 at an asking price of \$47,000;

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- (3) there is no view of the lake from the Property which is approximately 1,000 feet from the water;
- (4) directly across the street is a garage which is used for some type of a storage of cars and repairs to racing cars;
- (5) the Property cannot be sold for less than the assessment; and
- (6) the fair market value of the Property is between \$40,000 to \$50,000.

The Town argued the assessments were proper because:

- (1) the Property, like all properties in Lemyjoma Trail, has deeded beach rights to a small beach located at the end of Lemyjoma Trail;
- (2) the majority of the properties in the neighborhood are year-round and the subject has been adjusted 5 percent to the land in 1990 to account for the seasonal nature of the Property and should receive the same adjustment in 1989;
- (3) the camp has been classified as below average and received an additional 10 percent adjustment for its condition; and
- (4) a comparable property (Ragust) is vastly superior to the subject as the house is year-round with more square footage, but is submitted to show the desirability of the location.

Based on the evidence, we find the correct assessment should be \$59,220.

This assessment is ordered because the following supported a 10% adjustment:

- (1) the \$47,000 asking price;
- (2) the nearby noisy garage; and
- (3) the condition of the building and the high costs to update.

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The Taxpayers' evidence, however, did not warrant an adjustment to \$40,000 - \$45,000.

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Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975).

If the taxes have been paid, the amount paid on the value in excess of \$59,220 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Francis K. and Sophie M. Rogers, Taxpayers; Chairman, Selectmen of Sandown; and Scott Bartlett, MMC.

Dated: July 29, 1992

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Valerie B. Lanigan, Clerk

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