

Robert and Gail T. Capriole

v.

Town of Sandown

Docket No.: 6044-89

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments on Map 25, Lot 58 of \$89,500 (land, \$51,200; buildings, \$38,300) and Map 25, Lot 58A of \$3,800 (land only). Map 25, Lot 58 consists of a simple family residence on 14,424 square feet of land and Map 25, Lot 58A is a land only parcel consisting of 1,307 square feet (the Properties). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayers argued the assessments were excessive because:

- (1) the assessment on the land is excessive because the Town used higher square foot values compared to comparables;
- (2) proximity of water does not affect value by 25 percent;

Robert and Gail T. Capriole

v. Town of Sandown

Docket No.: 6044-89

Page 2

- (3) the road which was relocated in front of the house decreases the value of the Property;
- (4) Lot 58A is of no value unless owned in combination with Lot 58 and its value should not exceed the value per square foot of Lot 58A; and
- (5) the total assessments should be \$68,415.

The Town argued the assessments were proper because:

- (1) two comparable sales in the same neighborhood with the same rights indicate the Properties are not overassessed;
- (2) an adjustment of 25 percent was made for the existence of the ledge;
- (3) the Taxpayers' comparables are not comparable because they are land only parcels and do not have water rights; and
- (4) the adjustments made to the Properties are probably high and a fair assessment based on the comparables should be around \$100,000.

We find the Taxpayers failed to prove the Properties' assessment were disproportional. We also find the Town supported the Properties' assessments.

The Taxpayers' evidence failed for these reasons. First, the Taxpayers' appraiser did not use the two nearby sales. Admittedly these were 1988 sales, but they should have been used to assist in valuing the Property. Second, the appraisal did not adequately explain the adjustment of the comparables to the Property's land value. Finally, given the board's knowledge and experience, the assessments were not excessive.

Robert and Gail T. Capriole

v. Town of Sandown

Docket No.: 6044-89

Page 3

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 Robert and Gail T. Capriole, 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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