Douglas W. and Cheryl N. Koeppen

v.

Town of Sunapee

Docket Nos.: 7847-89 and 10530-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of $417,900 (land, $315,400; buildings, $102,500) for 1989 and $400,600 (land, $292,900; buildings, $107,700) for 1990 on a single family home on 1.7 acres of land on Bay Point Road (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' expert, Ms. Hulme, explained the general methodology used in appraising the Property. She testified she reviewed approximately 45 sales in the Town and in Newbury and New London. Ms. Hulme testified the market was not limited to the Town but included Newbury and New London.

The Taxpayers argued the assessments were excessive because:

(1)the lot is 1.7 acres with 140 feet of frontage on the lake and 192 feet of frontage on Bay Point Road, which is a private road accessed through the Town of Newbury only as access through Oakledge in the Town of Sunapee is closed;

(2)the Property cannot be accessed in the winter during storms and road maintenance is at the owner's expense;

(3) the Property is improved with a contemporary style one and one-half story year-round residence and is the steepest lot seen on the lake with access from the house straight down to the lake via approximately 100 steps;

(4) the shoreline is rocky and you cannot get a boat to the dock because of the large rocks in the water;

(5) there is no view of the lake from the house; and

(6) the fair market value of the Property is $280,000.

The Town explained the assessment methodology used throughout the Town, submitting several exhibits documenting the methodology. The Town asserted the same methodology was used throughout the Town, resulting in proportionate assessments. The Town then referred the board to specific sales to support the assessments.

The Town recommended revised assessments of $351,890 for 1989 and

$353,700 for 1990 to further reflect the problems with the lot. The Town argued the revised assessments were proper because:

(1)the Property is on a seasonal, accessible road and the topography is typical for Bay Point Road;

(2) the waterfrontage on Bay Point Road is all rocky;

(3) the subject has very good access from Bay Point Road and is level to the house; there is a very steep walk down to the lake and does suffer some topographical problems;

(4) the Town's primary comparable (Noble), which sold in October, 1988, on Bay Point Road has steeply sloping topography and poor access; and

(5) an approximate 30 percent deduction was applied for the extreme topography problems the Property suffers.

Based on the evidence, we find the correct assessment should be $316,300 (land, $202,900; buildings, $113,400) for 1989 and $318,200 (land, $202,900; buildings, 115,300) for 1990. These assessments are ordered because:

(1)the condition factor on the land should be reduced to 2.25 to further account for the unique combination of the lack of view of the lake from the house, the long steep access from house to lake and the rocky shallow frontage; and

(2)10 percent functional depreciation should be applied to the house for the extreme contemporary style of the house and the unique electric heating system.

If the taxes have been paid, the amount paid on the value in excess of

$316,300 for 1989 and $318,200 for 1990 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

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George R. Moore, Esq., Representative for the Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: July 28, 1992

_____

Valerie B. Lanigan, Clerk