

**Paul D. and Joyce B. Rheingold**

**v.**

**Town of Sunapee**

**Docket Nos.: 7873-89 and 10820-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$526,200 (Lot 39) a house on a .41-acre lot on Lake Sunapee and \$316,600 (1989) and \$308,600 (1990) (Lot 39-A) a boathouse with an apartment (razed in 1990) on a .19-acre lot (the Properties). The Town recommended adjusting Lot 39's assessment to \$499,800. Except for the adjustment recommended by the Town, 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 and prove 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.

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The Taxpayers argued the assessments were excessive for the following reasons.

Lot 39:

(1)Ms. Hulme's appraisal estimated the value at \$440,000.

Lot 39-A:

(1)Ms. Hulme's appraisal estimated the value at \$270,000; and

(2)there was no boathouse on Lot 39-A on April 1, 1989.

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 argued the assessments (with the adjustments to Lot 39) were proper because:

- (1) the change in condition factor adequately adjusted for the problems raised by the Taxpayers;
- (2) it was supported by certain sales; and
- (3) it was proportional to other assessments.

The board finds the Taxpayers failed to carry their burden. While the Town, having used the same methodology throughout the Town, supported the adjusted assessments. The Town testified the Properties' assessments were

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arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

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The board struggled with the integrated layout and use of the two lots, but ultimately decided that irrelevant since there are two legal lots and the lack of a Town ordinance merging the two substandard lots. If the Taxpayers want the benefit of having two lots, they must be taxed on that value. The Taxpayers' appraisals were insufficient to carry the Taxpayers' burden. The board found the appraiser undervalued the building on Lot 39 and undervalued the right to build a boathouse with an apartment on Lot 39-A. The board has heard hundreds of lakefront appeals and these Properties are excellent waterfront properties. This board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. RSA 541-A:18, V(b).

For Lot 39, Taxpayers' sale 3 sold for \$480,000 in December, 1988. Lot 39 is larger with more lake frontage and despite not being fully winterized has a beautiful house with many quality features. There is no way the Property is worth \$40,000 less than sale 3.

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's adjusted assessments.

If the taxes have been paid, the amount paid on the value in excess of \$816,400 (Lot 39 \$499,800; Lot 39A \$316,600) for 1989 and \$808,400 (Lot 39 \$499,800; Lot 39A \$308,600) for 1990 shall be refunded with interest at six

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percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., 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 31, 1992

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Valerie B. Lanigan, Clerk

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