

John D. Griffiths

v.

Town of Sunapee

Docket No.: 7886-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$435,600 (land, \$356,400; buildings, \$79,200) on a .3-acre lot with a garage with apartment and a cottage (the Property). The Town recommended adjusting the assessment to \$388,200. For the reasons stated below, the appeal for abatement is granted to the Town's recommended assessment.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the original assessment was modified due to some errors;
- (2) the Property was appraised by Arthur Phillips at a fair market value of \$340,000

as of April 23, 1988; and by John Sherman Breen at a fair market value of \$295,000 as of June, 1988;

(3) the comparables used by the Town are significantly lower than assessed value;

(4) an assessment between \$325,000 and \$335,000 is fair.

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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 assessment.

The Town argued the adjusted assessment was proper because:

- (1) it is a superior property to the Town's two comparables (Lewis and Behrens) in terms of topography, frontage, size and location;
- (2) the cottage is in poor condition and probably is not habitable therefore a decreased condition factor from 450 to 400 was made;
- (3) the change from four bedrooms, four bathrooms to three bedrooms, three bathrooms would not result in a change in value to the Property; and
- (4) the assessment, as adjusted, is fair and equitable.

The Town testified the Property's assessment was 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).

Based on the evidence, we find the Taxpayer failed to prove the Town's recommended assessment of \$388,200 was disproportional. If the taxes have been paid, the amount paid on the value in excess of \$388,200 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

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BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John D. Griffiths, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

Valerie B. Lanigan, Clerk