

Barbara J. and Guy E. Alexander, Jr.

v.

Town of Sunapee

Docket Nos.: 7900-89 and 10672-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$666,400 (Lot 15) -- a 1.95-acre lot on Lake Sunapee with a house, and \$195,200 (Lot 15A) -- an adjacent .89-acre lot with a house (the Properties). 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 submitted and read a lengthy report supporting their position that will not be repeated here. The Taxpayers asserted the assessment should be: Lot 15 - \$439,800 and Lot 15-A - \$130,445.

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.

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Lot 15A

We find the Taxpayers failed to show overassessment. Any errors made previously were innocuous because of other errors. For example, the building value may have been excessive given the quality, but the land assessment was undervalued by not adding value for the very possible water access over Lot 15. The Taxpayers raised concerns about certain errors in the assessment. However, the Taxpayers did not show these errors resulted in disproportionality. "Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellant." Appeal of Town of Sunapee, 126 N.H. at 217, quoting Amoskeag Manufacturing Co. v. Manchester, 70 N.H. 200, 205 (1899).

Lot 15

We find the Taxpayers proved disproportionality, and the board orders an assessment of \$569,600 (land, \$450,000; building, \$119,600). The board reduced the condition factor to 5.0 and depreciated the building by an additional -5%. These ordered assessments are proportionate to other assessments. We did not adopt the Taxpayers' proposed assessments because the Taxpayers did not make sufficient adjustment to the comparable sales and assessments, especially the lack of any lake frontage adjustment.

If the taxes have been paid, the amount paid on the value in excess of \$764,800 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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Barbara J. and Guy E. Alexander, Jr., Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 13, 1992

Valerie B. Lanigan, Clerk

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