

John W. and Carolyn S. Dietel

v.

Town of Sunapee

Docket Nos.: 7903-89 and 10648-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$382,000 on a .61-acre lot on Lake Sunapee with a camp (the Property). For the reasons stated below, the appeals for abatement are 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' 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) a Town culvert is directed on the lot, causing erosion and water problems;
- (2) the view is limited;
- (3) the privacy is limited;
- (4) the house has certain deficiencies, including a pier foundation;
- (5) the soil is poorly draining and a new septic will be costly;

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(6) the Town over-relied on the Annapolle sale; and

(7) Ms. Hulme estimated a value of \$350,000.

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 argued the assessments were proper because:

(1) the Garnet Hill section is one of the most desirable in Town;

(2) the assessment reflects the water problems (and lack of boathouse) (reduced \$420,400 to \$382,000);

(3) the Taxpayers' sales 1 and 3, if time adjusted, are in line with the assessments.

The board has reviewed the parties' memoranda on the time adjustments of sales (Exhibits TN-1 and TP-3) and finds the Town's arguments support the time adjustments used during the reassessment. The Town supported its adjustments in three ways:

(1) by the use of paired sales;

(2) by an analysis of sales (with time as a variable) to arrive at a median ratio of 99 percent and a coefficient of dispersion of less than 5 percent; and

(3) by an analysis of the Department of Revenue Administration's (DRA) 1989 and 1990 equalization ratios for Sunapee and the surrounding towns. The board

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finds the Taxpayer's time adjustment arguments inconclusive as they were based only on the sales of similar property at different times.

Further, the board finds that the DRA's 1989 and 1990 ratios of 100% and 106% were derived from assessments that were, in part, based on the Town's time adjustments; thus to now find a different time adjustment would insert a new element of disproportionality relative to all other property in Town.

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The sales demonstrated the value of lakefront properties in the Property's area and within the Town. The Property was assessed sufficiently to reflect the water problem. Additionally, if the Taxpayers' sales are time adjusted, as argued by the Town, the Taxpayers' appraisal would support the assessment. Finally, the Town testified the Property's assessments were 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).

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

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.

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Dated: August 14, 1992

Valerie B. Lanigan, Clerk

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