

James N. and Elizabeth S. Elliott

v.

Town of Sunapee

Docket No.: 7904-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$282,800 (land, \$32,800; buildings, \$250,000) on their real estate on Sunset Dr., consisting of a dwelling on a 2.9 acre lot (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was 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 argued the assessment was excessive because:

- (1) an appraisal done in June 1988 for the purpose of obtaining a loan estimated the Property value at \$225,000;
- (2) the house is only one and one-half stories in height, not one and three-quarters as calculated by the Town;

(3) the actual living area on the second floor is only 730 square feet, not 1012 as listed by the Town;

(4) the house has only two and one-half baths, not three as listed by the Town;

(5) the house cost about \$180,000 to build in 1988, not \$287,250 as estimated by the Town; and,

(6) the market was flat in 1988.

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 assessment was proper because:

(1) while called a one and three-quarter story height, the second floor effective living area was calculated at 759 square feet, very similar to the taxpayers' estimate;

(2) the house is of better quality and has significantly more square feet of living area than the Taxpayers' two Sunapee comparables; the taxpayers' appraiser did not adequately adjust for these differences;

(3) the 720 square foot basement area of the house is adequate and does not cause any loss in utility of the house overall; the \$5,000 adjustment by the taxpayers' appraiser for this basement being slightly smaller than the comparables is excessive;

(4) if these adjustments are made to the taxpayers' appraisal, the indicated value ranges from \$256,600 to \$262,500;

(5) the taxpayers' estimate of \$180,000 for building the house does not include their sweat equity and thus is a significant under estimation of the house's contributory value;

(6) the bathroom count is based upon the number of fixtures; since the master

bedroom had a total of five fixtures, an additional half bath was assessed; and, (7) the Town, in its final valuation, estimated the replacement cost of the house at \$251,023.

Board's Decision

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the assessment. The board has reviewed the Town's memorandum on the time adjustments of sales (Exhibits TN-H 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 finds the Taxpayer's assertion of no time adjustment from late 1987 to April 1989 inconclusive as it was based upon general comments made by realtors and was not supported by direct market data as the Town's arguments were.

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.

The board finds the Town's critique of the taxpayer's appraisal and its resulting value indication credible. If the Town's time adjustment of one half percent per month is applied to the taxpayer's sales, the resulting value range would be increased by eight to nine percent to approximately \$277,150 - \$283,500 (\$256,600 - 262,500 X 1.08). This result supports the Town's assessment as being proportional.

Further the board gives little weight to the taxpayers' evidence of the cost of the house being \$180,000 since it did not include an estimate of the

value of the taxpayers' time as carpenter and general contractor during the construction of the house.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to James N. & Elizabeth S. Elliott, taxpayers; and the Chairman, Selectmen of Sunapee.

Dated: August 25, 1992

Valerie B. Lanigan, Clerk