

Chris T. and Janet L. Armen

v.

Town of Sunapee

Docket No.: 7907-89

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$460,200 (land, \$340,900; buildings, \$119,300) on map 17 lot 21 and \$36,900 (land only) on map 17 lot 37, consisting of a dwelling and garage on a .45 acre lot on Lake Sunapee (lot 21) and a .45 acre unimproved lot on West Shore Rd. (lot 37) (the Property). The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. 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 argued, in their written submittals, the assessments were

excessive because:

- (1) the building has settled due to wet soil conditions;
- (2) the shed is overvalued;
- (3) there is only one dock, not two as assessed;
- (4) the land is assessed higher per front foot than a similar lot; and

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(5) the rear lot is encumbered with the leachfield and thus is not further developable.

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 recommended a revised assessment of \$458,200 (land, \$340,900; buildings, \$117,300) due to the incorrect listing of the docks (only one, not two as originally listed).

The Town argued the revised assessment was proper because:

- (1) the settling problem of the house was accounted for by an additional 5% depreciation; and
- (2) the Property is currently listed at \$579,000 and, while it is not necessarily conclusive evidence of the property's value, it does set the upper limit of value.

### **Board's Rulings**

Based on the evidence, we find the correct assessments should be: \$458,200 (land \$340,900 and building \$117,300) for lot 21 and \$27,700 for lot 37. These assessments are ordered because:

- 1) the Town's correction on lot 21 is reasonable; and
- 2) lot 37 is encumbered with the leachfield for lot 21 and thus should be appraised as part of a larger estate (See RSA 75:9); the land condition factor for lot 37 should be

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reduced to .75 to account for the lots interdependence.

If the taxes have been paid, the amount paid on the value in excess of \$485,900 shall be refunded with interest at six 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

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Chris T. and Janet L. Armen, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

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Valerie B. Lanigan, Clerk