

Carl C. Bartels

v.

Town of Sunapee

Docket Nos.: 7910-89 & 10564-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$511,500 (land, \$439,800; buildings, \$71,700) on a cottage on 0.59 of an acre of land on Lake Avenue (the Property). The Town recommended revised 1989 and 1990 assessments of \$465,200 (land, \$393,500; buildings, \$71,700). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessments were 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).

The Taxpayer's 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 Taxpayer argued the assessments were excessive because:

- (1) the lot is 0.59 of an acre with 82 feet of frontage on the lake and 71 feet of frontage on Lake Avenue and is a narrow lot;
- (2) the site improvements include a one story wood frame seasonal residence, one car garage and a dock;

- (3) the residence was built in 1925 and partially remodeled in 1986 and only the new addition has been fully insulated;
- (4) the residence is seasonal, has very small rooms and lacks a foundation;
- (5) the land is level from the road to the house and steeply slopes from the house to the water;
- (6) the Property abuts a commercial boatworks business to the north which detracts from its value; and
- (7) the fair market value is \$380,000.

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 recommended assessments were proper because:

- (1) the neighborhood analysis is good to very good and the sales in the area support this;
- (2) the "boatworks business" property is one of the most beautiful properties on the lake and is run by one person renovating classic wooden boats;
- (3) if you time adjust the Taxpayer's comparables and adjust for the subject's good to very good neighborhood, the range of values is \$425,900 to \$476,600;
- (4) the Town did adjust the condition factor from 4.75 to 4.25 to reflect the narrow lot; and
- (5) the assessments are fair and equitable.

Board's Rulings

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 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.

Based on the evidence, we find the correct 1989 and 1990 assessments should be \$442,100 (land \$370,400 and building \$71,700). These assessments are ordered because the board felt a further adjustment to the condition factor should be made to reflect the commercial influence on the abutting lot.

If the taxes have been paid, the amount paid on the value in excess of \$442,100 each tax year shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George R. Moore, Esq., counsel for Carl C. Bartels, taxpayer; and the Chairman, Selectmen of Sunapee.

Dated: August 31, 1992

Melanie J. Ekstrom, Deputy Clerk

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