

Adele H. Guay

v.

Town of Sunapee

Docket No.: 7917-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$75,100 (land, \$74,600; buildings, \$500) on a .012-acre lot with a dock (the Property). The Taxpayer also owns, but did not appeal, a 0.70-acre parcel assessed for \$48,000. For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was 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). We find the Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) it was too high for such a small piece of land and its odd shape makes most of it unusable;
- (2) a condition of the deed and town subdivision restrictions restrict its use as a

building lot;

(3) there is a small dock on the Property but the water is so shallow that boats have to be rowed in;

(4) cars cannot be parked on the lot; and

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(5) two appraisals were prepared, one in 1987 at a value of \$30,000 and one in 1990 at an appraised value of \$40,000.

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 assessment.

The Town argued the assessment was proper because:

- (1) waterfront parcels that are too small to build on are assessed based on their utility;
- (2) the Property provides access to Lake Sunapee for boating and swimming, has two boat slips and access to the back lot;
- (3) the problem with the shallow water was addressed;
- (4) the assessment is supported by comparable sales which included non-lakefront parcels with deeded access to the water for swimming and/or docking, buildable waterfront parcels and individual condominiumized boatslips;
- (5) the difference in value between shared waterfront lots and exclusive waterfront lots must be recognized; and
- (6) the overall value of both lots owned is supported by the data.

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment. In

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reviewing this appeal, the board looked at the value of the Property with the Taxpayer's other property, map 25, lot 38. See Appeal of Sunapee, 126 N.H. 214 (1985). Based on this review, we conclude the Taxpayer's total estate was not over assessed. Moreover, the Taxpayer failed to overcome the Town's evidence of the Property's value as a separate lot.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Adele H. Guay, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 13, 1992

Valerie B. Lanigan, Clerk