

Miriam Snyder

v.

Town of Sunapee

Docket Nos.: 7919-89 & 10554-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$430,900 (land, \$387,000; buildings, \$43,900) on map 17 lot 5 and \$29,300 (land only) on map 17 lot 2 consisting of a camp on a .63 acre lot on Lake Sunapee (lot 5) and a .26 acre unimproved lot (lot 2) (the Property). 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). We find the Taxpayer carried this burden and proved disproportionality.

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 highest and best use of the Property was as vacant due to the poor condition and poor utility of the house; most of the improvements in the neighborhood are year-round;
- (2) water front is shallow;

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- (3) the lot has limited privacy due to the closeness of the abutters;
- (4) the Town's comparables are of all year-round properties; they are not comparable to the Taxpayer's low quality seasonal cottage; and
- (5) an appraisal by Thompson Appraisal Co., Inc. estimated the Property's value at \$300,000.

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 recommended at the hearing a corrected assessment of \$398,000 (land, \$367,600; buildings, \$30,400) for lot 5 due the camp being of lower quality and condition than initially listed and due to the underdeveloped nature of the site.

The Town argued the revised assessment was proper because:

- (1) Taxpayer's sales #1 and #3 are in a greatly inferior neighborhood than the Taxpayer's Property; the 15% adjustments for this locational difference are inadequate; and
- (2) the cottage does contribute some value to the Property's overall value.

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

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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

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(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 assessment should be \$398,000 (land \$367,600 and building \$30,400). This assessment is ordered because:

- 1) the Town's recommended adjustments are reasonable; and
- 2) the highest and best use, in this case, is as improved and, thus, the improvements do contribute to the property's value.

"In mass appraisal, the current highest and best use is usually considered to be the current use, that is, buildings will not be immediately demolished or replaced." Property Appraisal and Assessment Administration, The International Association of Assessing Officers, 1990 pgs. 102-103

The value as vacant, in this case, is less than the value as improved minus the demolition costs.

If the taxes have been paid, the amount paid on the value in excess of \$398,000 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

Paul B. Franklin, Member

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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 Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

Valerie B. Lanigan, Clerk