

**Esther O. Lofquist**

**v.**

**Town of Sunapee**

**Docket No.: 7924-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$547,700 (land, \$466,000; building, \$81,700) on a .9-acre lot on Lake Sunapee with a house (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved disproportionality.

The Taxpayers'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.

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The Taxpayer argued the assessment was excessive because:

- (1) the house itself has certain physical and functional deficiencies, e.g. no foundation, room layout and construction materials; and
- (2) a culvert drains on the lot with adverse affects.

Ms. Hulme estimated the Property's value at \$430,000.

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.

Further, the Town argued the sale of the abutting property (Rice) subsequent to the reassessment in 1991 for \$565,000 is a good indication of market value even after adjustments are made for the comparable sale's boathouse and better lot.

Based on the evidence, we find the correct assessment should be \$526,900 (land, \$466,000; building, \$60,900). This assessment is ordered because:

- (1) an additional 20% functional depreciation is given to the house for its seasonal and functional aspects. This adjustment is supported by sales data submitted by both parties; and
- (2) the board finds the sales of properties in Sunapee submitted by the Town are generally more comparable and credible than the sales and

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adjustments submitted by the Taxpayer's expert.

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If the taxes have been paid, the amount paid on the value in excess of \$526,900 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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

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: July 30, 1992

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Valerie B. Lanigan, Clerk

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