

Gerard and Isabelle Cormier

v.

Town of Sunapee

Docket Nos.: 7929-89 and 10046-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$405,200 (land, \$344,900; buildings, \$60,300) on their real estate at 45 West Shore Rd., consisting of a seasonal camp on a .37 acre lot on Lake Sunapee (map 17 lot 28) and the assessment of \$20,300 (land only) on map 17 lot 30 (the Property). 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' 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 Taxpayers argued the assessments were excessive because:

(1) the camp is on concrete piers with some bowing of the walls and settling; the Taxpayers have since put a full foundation under the camp in the process of generally winterizing the camp;

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- (2) the view from the camp is mainly across the inlet with the view to the southeast obscured by a neighbor's boathouse;
- (3) the water is shallow, only about 3 feet deep 10 feet from shore ;
- (4) the camp is an underimprovement for the lot based on the norm in the neighborhood;
- (5) the second floor of the camp is unfinished;
- (6) an appraisal by Thompson Appraisal Co., Inc. estimated the market value for lot 28 at \$330,000;
- (7) some of the Town's sales were of year-round dwellings and thus not comparable to the Taxpayer's property; and
- (8) in 1989 the water supply was from the lake and usable seasonally.

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 revised assessment of \$382,900 (land, \$327,700; buildings, \$55,200) for lot 28 due to corrections in the grade of the camp and the heating system and a reduction in the land condition factor to 4.75 due to the neighbor's boathouse.

The Town argued the revised assessment was proper because:

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- (1) the second floor was priced as unfinished on the assessment card;
- (2) the Taxpayer's comparables #2 and #3 are in a poorer location past the narrow portion of Jobs Creek and were not adequately adjusted by the Taxpayer's appraiser for their inferior location; and
- (3) if proper time and locational adjustments are made to the Taxpayer's comparables, the indicated value supports the revised assessment.

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### **Board's Ruling**

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 assessment should be \$365,600 (land \$310,400 and building \$55,200) for lot 28 and \$13,500 for lot 30. This assessment is ordered because:

1) the land condition factor on lot 28 should be reduced to 4.50 due to the partial obscuring of the water front view by the neighbor's boathouse; and

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2) the land condition factor of lot 30 should be reduced to .50 for the size and utility of the lot.

If the taxes have been paid, the amount paid on the value in excess of \$379,100 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

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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 George R. Moore, Esq., Representative for the Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

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Valerie B. Lanigan, Clerk