Albert W. Brown and Elizabeth W. Brown

v.

Town of Sunapee

Docket Nos.: 7937-89 & 10532-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of $538,900 (land, $445,400; buildings, $93,500) on a ranch style dwelling on 0.62 of an acre of land on Lovejoy Lane (the Property). For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

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 Property has limited privacy as the abuttors are close on either side and there are two right-of-ways over the lot to two adjoining parcels;

(2) the lot has 100 feet of frontage on the lake but the view of the lake from the house is obstructed by a boathouse on the Property;

(3) the house is not fully insulated and does not have a full foundation, has limited storage, and is used only seasonally;

(4) the footprint of the house could not be altered given the configuration of the lot; and

(5) the fair market value of the Property is $400,000.

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 assessments were proper because:

(1) from the house, you can see a complete vista of Mt. Sunapee;

(2) Birch Point is one of the finest neighborhoods in the Town;

(3) the boathouse is a major enhancement to the Property;

(4) the comparables used by the Taxpayers do not have as great a view, one comparable is very rocky and the location is inferior;

(5) a condition factor of 4.75 was applied (a $47,000 adjustment) which took into account the two right-of-ways over the Property; and

(6) the assessments are proportional.

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.

We find the Taxpayers failed to prove the Property's assessments were disproportional. We also find the Town supported the Property's assessments with good market data and resales of comparables. Further, we find the Town made an adequate adjustment for the two rights-of-way over the subject lot.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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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 Albert W. & Elizabeth W. Brown, taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 31, 1992

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Melanie J. Ekstrom, Deputy Clerk