Nesha B. Springer (deceased)

v.

Town of Sunapee

Docket No.: 7939-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of $173,700 (land, $20,800; buildings, $152,900) on her real estate at 35 Vega Strand, consisting of a condominium unit at Granliden (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 Taxpayer argued the assessment was excessive because:
(1) the docks and waterfront are owned by the Granliden homeowners association and were separately assessed to the association; since the Town's assessments are based upon the sales of individual properties which included the potential for the

use of the docks and waterfront, the potential for double taxation exists;

(2) the difference in value between having a basement and not is only approximately $10,000;

(3) two assessments of units without basements show disproportionality with the subject which has no finished basement.

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 recommended at the hearing a revised assessment of $163,400 (land, 20,800; building, $142,600) to correct for the lack of finished basement area and for more depreciation due to the age of the renovations.

The Town argued the assessment was proper because:

(1) the value of the docks were assessed to the association because it is a residual interest retained by the association and is not sold as separate rights to the individuals;

(2) the two sales of units 46 and unit 50 support the differential value between units with a basement versus a crawl space;

(3) the value of having room for living area expansion in the basement for a seasonal property is more than the cost difference for a basement.

Based on the evidence, we find the correct assessment should be $163,400, (land $20,800 and building $142,600). This assessment is ordered for the reasons set for in the Town's recommended adjustment.

If the taxes have been paid, the amount paid on the value in excess of $163,400 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

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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 Robert P. Springer, representative for Nesha B. Springer; and the Chairman, Selectmen of Sunapee.

Dated: August 25, 1992

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Valerie B. Lanigan, Clerk