

R. Larry and Marilyn K. Johnson

v.

Town of Sunapee

Docket Nos.: 7944-89 and 10393-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$152,100 (land only) on Map 18, Lot 15B, consisting of .22 of an acre (40' wide) (the Property). The Taxpayers indicated by that they would be unable to attend the hearing, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. 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 argued, in their written submittals, the assessments were excessive because:

- (1) the lot can't be built on (by covenant);
- (2) the lot can only be used for water access to the Lake; and
- (3) the lot is assessed higher per front foot than larger lots with more frontage and cottages on them.

R. Larry and Marilyn K. Johnson

v. Town of Sunapee

Docket Nos.: 7944-89 and 10393-90

Page 3

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) a 4' x 20' dock can be constructed on the lot;
- (2) the lot provides a water access for the Taxpayers' improved lot #1; and
- (3) the Town used lots #39-46, 42, 43, and 44 as comparable water access lots.

Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

We find the Taxpayers failed to prove the Property's assessments were
disproportional. We also find the Town
supported the Property's assessments.

SO

ORDERED.

BOARD OF TAX AND LAND APPEALS

R. Larry and Marilyn K. Johnson

v. Town of Sunapee

Docket Nos.: 7944-89 and 10393-90

Page 4

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to R. Larry and Marilyn K. Johnson, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: September 1, 1992

Melanie J. Ekstrom, Deputy Clerk

0007