

Stephen T. McGrath

v.

Sunapee

Docket No.: **7951-89**

DECISION

The "Taxpayer" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$349, 400 (land, \$253, 500; buildings, \$95, 900) on his real estate located on Lake Ave, consisting of a two-unit dwelling, shed and dock on a .28 acre lot on Lake Sunapee. This Property is used for the MV Kearsage dinner cruises (the Property). The Taxpayer failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayer was 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 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 Taxpayers failed to carry this burden.

The Taxpayer argued in his appeal the assessment was excessive because:
(1) the town had charged a commercial factor on the land resulting in the Property being disproportionally assessed relative to other similarly situated

property; and

(2) the town had incorrectly assessed a shed that did not belong to the Taxpayer.

The Town's arguments are contained in Exhibit TN-G which in summary states that the highest and best use of Property is the present use of providing boat tours and thus the commercial factor on the land is appropriate.

The Town further stated that it had removed the incorrect assessment of one shed and abated the taxes.

Board's Rulings

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment in its written presentation (Exhibit TN-G).

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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 Stephen T. McGrath, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: December 23, 1992

Valerie B. Lanigan, Clerk

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