Roger O. Topliffe & Nancy N. Topliffe

v.

Town of Sunapee

Docket Nos.: 7958-89 and 10663-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of $399,100 (land, $322,000; buildings, $77,100) on a .86-acre lot on Lake Sunapee with a ranch house (the Property). For the reasons stated below, the appeal for abatement is granted to the Town's adjusted assessment of $369,800.

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 submitted a very well-prepared assessment report that presented the Taxpayers' arguments and supporting data. The board reviewed the full report and will not reiterate its details here.

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.

Based on the evidence, we find the correct assessment should be $369,800. This assessment is ordered because:

(1) it reflects the Property's lack of town sewer in 1989 and 1990; and

(2) it is consistent with the Taxpayers' comparable sales analysis of comparable 3, without giving an adjustment for the wet area.

The board concluded Taxpayers' comparable 3 was the best comparable. We then accepted for review all of the Taxpayers' adjustments except the $13,500 adjustment given for the wet area. The board did not make the wet land adjustment because the wet area does not reduce the Property's value to the extent claimed by Taxpayers.

If the taxes have been paid, the amount paid on the value in excess of $369,800 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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Ignatius MacLellan, Esq., Member

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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 Roger O. and Nancy N. Topliffe, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 25, 1992

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Melanie J. Ekstrom, Deputy Clerk

Roger O. and Nancy N. Topliffe

v.

Town of Sunapee

Docket No.: 7958-89 and 10663-90

ORDER

This order responds to the "Taxpayers'" rehearing motion, which is denied.

In originally reviewing the "Property's" assessment, the board did the following.

1) reviewed the Taxpayers' report;

2) reviewed the Town's comparables and assessment methodology; and

3) reviewed the Property's assessment in relation to the fair market value of the comparables and the assessments on other properties.

The Taxpayers, in their motion, placed too much weight on the role their report played in the board's decision. The board did not accept the value conclusion presented in the Taxpayers' report. The board reviewed and adjusted the Taxpayers'

analysis to obtain a benchmark that was then reviewed against the Town's evidence, finding only Taxpayers' comparable three to be comparable to the Property. Additionally, the Taxpayers' analysis was not accepted because they did not support the adjustments made to the comparables, especially the locational adjustments.

The board erred, however, in its written decision by failing to mention the time adjustment that the board made to the Taxpayers' comparable three. Given the board's error, we understand why the Taxpayers thought the board erred in the decision. However, the error was in the board's explanation not in the conclusion.

Comparable three sold in July, 1987, for $320,000. The Taxpayers time adjusted the sale price by +15% or .75%/month. The Town testified it had time adjusted sales during the same period by +1%/month. The Taxpayers have the burden of proof, and they did not overcome the Town's +1%/month time adjustment. Thus, using the Town's time adjustment and the Taxpayers' other adjustments, except for the wet-area adjustment, comparable three would be calculated as follows.

$320,000	sales price
x 1.20	time adjustment
$384,000	adjusted sales price
- 2,110	land size adjustment
+ 670	dwelling adjustments
- 2,300	outbuilding adjustment
- 12,000	boathouse adjustment

- 3,950	dock adjustment
$364,310	adjustment comparable number three

The board then reviewed the Town's comparables and the assessments on other properties, using the adjusted, comparable-three price as one benchmark. A review of the Town's comparables and the assessments in the area on other properties demonstrated the $369,800 adjusted assessment was proportional. (See attached map with board annotations.)

Obviously, the land assessment on these waterfront lots was significant. However, the Town's sales and the Taxpayers' sales supported the high land

assessments. Part of the Town's evidence was two "teardown" sales -- properties purchased and the old building razed and a new building built. While these sales had structures that could have been occupied, the sales demonstrated the value of a lot that could support a larger building. Such was the case with the Taxpayers' lot, i.e., the Taxpayers' lot was large enough to support an expanded house and this certainly was a value enhancer.

While the board looked at the assessment components -- land and buildings -- the board's main focus was on the Property's value as a whole. Again, looking at the Taxpayers' and the Town's comparables, as a whole, the adjusted assessment was proper.

The board apologizes for the delay in responding. Unfortunately, the board still manages its 3,600 cases by hand, i.e, with index cards, log books, etc. Sometimes this results in files being misplaced as happened here. This problem will be resolved shortly when the board obtains a computerized docket system.

SO ORDERED.

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to Roger O. and Nancy N. Topliffe, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated:

Valerie B. Lanigan, Clerk