

Burton A. Gould Jr.

v.

Town of Sunapee

Docket No.: 7961-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of \$392,500 (land, \$355,300; buildings, \$37,200) on map 17 lot 24 (consisting of a camp on a .43 acre lot on Lake Sunapee) and \$35,200 (land only) on map 17 lot 34, (consisting of a .41 acre unimproved lot on West Shore Rd.) (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessments were 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 assessments were excessive because:
(1) the neighbor's raised septic system on the lot adjacent to the Taxpayer's rear lot has a negative visual affect on the taxpayer's rear lot;

(2) the lots are at the low point in the road and receive water from a culvert under the road;

(3) the view from the lake lot is only across the inlet and not of the main part of the lake;

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(4) the dwelling is a very seasonal cottage situated on piers with the attendant shifting of the camp;

(5) the water supply was from the lake and the septic was inadequate; and

(6) the Taxpayer's opinion of value for both lots is \$300,000.

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 recommended at the hearing a revised assessment of \$370,000 (land, \$337,500; buildings, \$32,500) for lot 24 due to lowering the grade of the camp, a correction on the listing of the docks and a lowering of the condition factor for the property's location on Jobs Creek.

The Town argued the revised assessment was proper because:

(1) the Town's comparables #2 and #7 are the most comparable to the Taxpayer's property and support the revised assessment.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$352,300 (land \$319,800 and building \$32,500) for lot 24 and \$29,900 for lot 34. This assessment is ordered because:

(1) we find the Town's recommended correction reasonable, but in addition;

(2) the rear lot (lot 34) should be reduced by 15% due to its wetness along the road; this adjustment results in a proper assessment for lot 34 of \$29,900; and

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(3) the condition factor on lot 24 should be reduced to 4.50 to account for the drainage through the lot; this adjustment results in a proper assessment of \$352,300 (land, \$319,800; buildings, \$32,500) for lot 24.

If the taxes have been paid, the amount paid on the value in excess of \$382,200 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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 Burton A. Gould, Jr., Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

Valerie B. Lanigan, Clerk