

Margaret-Ann H. Bamberg

v.

Town of Sunapee

Docket No.: 7975-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$395,500 on a house with a .21-acre lot on Lake Sunapee (the Property). The Town recommended an adjusted assessment of \$367,700. 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's expert, Ms. Hulme, explained the general methodology used in appraising the Property. She testified she reviewed approximately 45 sales in the Town and in Newbury and New London. Ms. Hulme testified the market was not limited to the Town but included Newbury and New London.

The Taxpayer argued the assessment was excessive because:

(1)the lot has limited privacy due to proximity of abutting properties;

Margaret-Ann H. Bamberg

v. Town of Sunapee

Docket No.: 7975-89

Page 2

- (2) the lot is very steep with rocky lake frontage;
- (3) there is a parking problem;
- (4) the building has certain deficiencies, including lack of finish, seasonal nature and layout;
- (5) the dock was in disrepair on April 1, 1989, and the repairs would be costly; and
- (6) Ms. Hulme's appraisal estimated the value at \$330,000.

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 assessment.

The Town argued the assessment was proper because:

- (1) adequate adjustments were made to the assessments to address the Taxpayers' concerns;
- (2) time adjusting the Taxpayers' comparables results in a \$356,500-\$370,800 range; and
- (3) the adjusted assessments are within an acceptable range.

Based on the evidence, we find the correct assessment should be \$360,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not

Margaret-Ann H. Bamberg

v. Town of Sunapee

Docket No.: 7975-89

Page 3

allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

Margaret-Ann H. Bamberg

v. Town of Sunapee

Docket No.: 7975-89

Page 4

The board agreed with the Town's adjusted assessment except the board gave the building additional depreciation due to the asbestos siding and the problems with the concrete dock and stairs.

If the taxes have been paid, the amount paid on the value in excess of \$360,000 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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to George R. Moore, Esq., Representative for the Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: July 29, 1992

Valerie B. Lanigan, Clerk

0007