

Austin L. and Mary Anne D'Alton

v.

Town of Sunapee

Docket Nos.: 7977-89 and 10392-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$514,600 (Lot 51) on a year-round chalet with a .6-acre lot on Lake Sunapee and \$17,700 (Lot 51A) on a .04-acre lot (the Properties).

For the reasons stated below, the appeal for abatement is granted for Lot 51 and denied for Lot 51A.

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' 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.

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The Taxpayers argued the assessment on Lot 51 was excessive because:

- (1) a drainage culvert runs across the front of the lot, requiring a bridge walkway;
- (2) the Property is in a cove with limited frontage;
- (3) the building has certain deficiencies; and
- (4) Ms. Hulme estimated a \$430,000 value.

No evidence was presented on Lot 51A, and thus, the appeal on Lot 51 is denied. The remainder of this decision relates to Lot 51.

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 they were supported by certain sales and was proportional to other assessments. The Town asserted the Taxpayers' appraisal, when adjusted as the Town thought appropriate, demonstrated a range of \$460,000 to \$501,800.

Based on the evidence, we find the correct assessment should be \$491,355 (land \$395,155 and building \$96,200). Given the Property's location, topography (including the culvert and lack of on-site parking), the condition factor in the land should be 4.0 not 4.25. With this adjustment, the Town's

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adjusted figure is consistent with the market value and proportional with other assessments.

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If the taxes have been paid, the amount paid on the value in excess of \$491,355 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 Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: July 29, 1992

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Valerie B. Lanigan, Clerk

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