

Donald W. Coury and David F. Coury

v.

Town of Sunapee

Docket Nos.: 7978-89 and 10596-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$661,000 (land, \$496,800; buildings, \$50,300) on a 2.4-acre lot with a camp, small cottage and other features (the Property). The Town recommended an adjustment to \$547,100. For the reasons stated below, the appeal for abatement is granted.

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.

The Taxpayers argued the assessments were excessive because:

- (1) the lot and cottage have certain deficiencies, including septic issues, lack of updating and bulging northern wall; and
- (2) the view is limited.

Ms. Hulme estimated the Property's value at \$460,000.

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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 adjusted assessments were proper because they were supported by the sales and were consistent with other assessments. The Town adjusted the Taxpayers' appraisal, resulting in a value of \$522,400 - \$498,000.

Based on the evidence, we find the correct assessment should be \$547,100. This assessment is ordered because the Town's adjustments adequately reflect the land values on the lake. The Town's testimony that the Property's assessments were arrived at using the same methodology used in assessing other properties in the Town is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

If the taxes have been paid, the amount paid on the value in excess of \$547,100 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

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald W. Coury and David F. Coury, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 10, 1992

Valerie B. Lanigan, Clerk

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ORDER

This order relates to the "Taxpayers'" rehearing request. The request fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3. Therefore, the Taxpayers' request is denied.

Based on the information in the file, \$547,100 was the correct assessment and the board having reviewed the property and other assessments in the Town finds it is the proper assessment.

SO ORDERED.

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George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

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I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, to Donald W. Coury and David F. Coury, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated:

Melanie J. Ekstrom, Deputy Clerk