

William Pearson

v.

Town of Sunapee

Docket Nos.: 7993-89 & 10606-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$490,700 (land, \$429,000; buildings, \$61,700) on a single family ranch on 0.28 of an acre of land on Birch Lane (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 Property consists of a one story ranch style seasonal home with 1,100 useable square feet, without insulation, on a 0.28 acre lot with 22 feet of road frontage and 182 feet of lake frontage;
- (2) the current house is a grandfathered structure and may not be expanded greater than the existing footprint as it is in a non-conforming status due to its close proximity to the side lot lines;

- (3) an analysis with comparable sales prepared by Wade B.C. Weathers of Country Houses estimated the fair market value to be \$345,000;
- (4) a comparison of unit prices for similar properties indicates the subject is assessed higher;
- (5) a comparison of condition factors applied to similar properties indicates a higher factor was applied to the subject; and
- (6) the Town has artificially inflated the assessed value.

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:

- (1) the smaller the lot, the higher the unit price;
- (2) a condition factor of 5.50 was applied for the enhanced value the Property entertains with its 180 degree view and frontage on the point;
- (3) the house can be built upward;
- (4) the Property has town sewer so adding a septic system would not be an issue if the Taxpayer wished to convert to year round; and
- (5) the assessment is proportionate.

Based on the evidence, we find the correct assessments should be \$471,200 (land \$409,500 and building \$61,700). These assessments are ordered because the Board finds that in spite of the amount of frontage on the point, the lot has

limitations as a result of its size and a condition adjustment from 5.5 to 5.25 is warranted.

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If the taxes have been paid, the amount paid on the value in excess of \$471,200 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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph DiBrigida, Jr., Esq., representing the Taxpayer; and to the Chairman, Board of Selectmen, Town of Sunapee.

Dated: September 1, 1992

Melanie J. Ekstrom, Deputy Clerk

