

Lisa M. Bozogan

v.

Town of Sunapee

Docket Nos.: 7995-89 and 10615-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" assessments of \$424,500 (land, \$303,900; buildings, \$120,600) in 1989 and \$430,800 (land, \$303,900; buildings, \$126,900) in 1990 on a single-family ranch and seasonal cottage on 0.68 of an acre on Woodland Road (the Property).

The Town recommended assessments of \$359,400 for 1989 and \$365,700 for 1990.

For the reasons stated below, the appeal for abatement is granted to the adjusted assessments.

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).

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 assessments were excessive because:

- (1) the Property is improved with a raised ranch, that is 90 percent complete and a seasonal cottage;
- (2) the cottage has functional problems and is fit for seasonal use only;

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- (3) the lot is on the narrowest part of the lake;
- (4) there is no view of the lake from the new house;
- (5) there is a culvert on the Property which sometime causes minor flooding of the road in front of the house and driveway;
- (6) part of the garage on the abutting parcel to the south is situated on the Property;
- (7) comparable sales do not support the assessment; and
- (8) the fair market value of the Property is \$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 assessments.

The Town argued the adjusted assessments were proper because:

- (1) the condition factor was reduced because of the lot's narrowness and location;
- (2) the Thompson appraisal did not account for the utility of the waterfront cottage and to the Town's knowledge, it was rented year round in 1989;
- (3) the utility of having two separate dwellings on the lot was addressed; and
- (4) the adjusted assessments are fair and consistent with other properties in the Town.

Based on the evidence, we find the correct assessments should be \$359,400 for 1989 and \$365,700 for 1990. These assessments are ordered because the

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Town's adjustments adequately addressed the Taxpayer's claim of overassessment.

Furthermore, the adjusted 1989 assessment is within 8% of the Taxpayer's appraisal.

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The board denies the Taxpayer's request for costs. While the Town did not act in an exemplary way, especially by its failure to send all abatement requests to Avitar, we do not think the Town's actions warrant an award of costs.

If the taxes have been paid, the amount paid on the value in excess of \$359,400 for 1989 and \$365,700 for 1990 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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, 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: August 28, 1992

Melanie J. Ekstrom, Deputy Clerk

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