

Oliver A. Servadio

v.

Town of Sunapee

Docket Nos.: 8014-89 and 10660-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$313,800 on their real estate at 299 Lake Avenue, consisting of a cottage on a 3.2-acre lot on Lake Sunapee (the Property). The Town recommended adjusting the assessment to \$253,500. 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 Taxpayers'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.

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The Taxpayer argued the assessments were excessive because:

- (1) there is no direct access on the lot - he must park on the street and cross neighbor's lot on foot;
- (2) the lot is very narrow; and
- (3) the appraisal estimated a July 1, 1989 value of \$220,000.

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 further argued the adjusted assessment was proper because:

- (1) the reduced condition factor from 3.5 to 2.75 adequately reflects the problems with the Property; and
- (2) the Taxpayer's appraiser over-adjusted for the boathouse on her sale #1 and under-adjusted for location.

We find the Taxpayer failed to prove the Property's revised assessment was disproportional. The board finds the revised assessment of \$253,500 properly recognizes the legal and physical problems with the lot and no further abatement beyond that recommended by the Town at hearing is warranted.

We also find the Town supported the Property's revised assessment.

If the taxes have been paid, the amount paid on the value in excess of

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\$253,500 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

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 27, 1992

Valerie B. Lanigan, Clerk

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