

John R. Mapley

v.

Town of Sunapee

Docket No.: 8016-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$349,900 on a condominium at Indian Cave Landing (the Property).

For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was 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 failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the quality adjustment on the building was an error;
- (2) no living space under garage;
- (3) the driveway is short;
- (4) the neighboring property is very close; and
- (5) a proper assessment would be \$290,200.

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 assessment.

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The Town argued the assessment was proper because:

- (1) the assessments in this development were derived from sales;
- (2) if there was an error in assessing for space below the garage, it would not affect the assessment since the assessment was based on sales; and
- (3) the Taxpayer purchased the Property in February 1989 for \$350,000.

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The Taxpayer did not present any credible evidence that the Property's fair market value was less than the assessment. To carry his burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. Moreover, the sales data presented by both parties, including the Property's 1989 price, supported the assessment.

The Taxpayer complained about the high amount of taxes he must pay. The amount of property taxes paid by the Taxpayer was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board can only decide if the

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Property was overassessed, resulting in the Taxpayer paying a disproportionate share of taxes. Appeal of Town of Sunapee, 120 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

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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 John R. Mapley, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 28, 1992

Melanie J. Ekstrom, Deputy Clerk

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