Robert R. and Margaret H. Thompson

v.

Town of Sunapee

Docket Nos.: 8019-89 & 10654-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" assessments of $514,200 (land, $405,000; buildings, $109,200) for 1989 and $520,400 (land 405,000; buildings $115,400) for 1990 on map 17 lot 6 and $21,300 (land only) on map 17 lot 3, consisting of a dwelling on a .75 acre lot on Lake Sunapee (lot 6) and a .19 acre unimproved lot (lot 3) (the Property). 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 drops steeply from the dwelling to the lake and the steps to the water were in poor condition;

(2) privacy is limited due to the closeness of the abutters;

(3) the water is quite shallow within 10 feet of shore;

(4) current water supply is a shallow well and not adequate for year-round use;

(5) dock was in very poor condition during the tax years under appeal;

(6) basement was wet and could not be accessed from inside;

(7) windows of the dwelling were in poor condition;

(8) based on the appraisal by Thompson Appraisals Co., Inc. the market value of lot 6 is estimated at $450,000; and

(9) lot 3 was of questionable buildability due to its size, septic capability and location (lack of privacy by being in a triangle).

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 (Nos. 7, 9, and 10) to support the assessments.

The Town argued the assessments were proper because:

(1) for 1989 the value of the basement was omitted;

(2) 15 and 10 percent depreciations were given for the two years to recognize the unfinished items and basement access problems with the house;

(3) a larger adjustment in the Thompson Appraisal comparables should be made for time appreciation, lot size, and superior view of the Taxpayers' lot; and

(4) the Property has a southern orientation and a good view.

Board's Rulings

The board has reviewed the parties' memoranda on the time adjustments of sales (Exhibits TN-1 and TP-3) and finds the Town's arguments support the time adjustments used during the reassessment. The Town supported its adjustments in three ways:

(1) by the use of paired sales;

(2) by an analysis of sales (with time as a variable) to arrive at a median ratio of 99 percent and a coefficient of dispersion of less than 5 percent; and

(3) by an analysis of the Department of Revenue Administration's (DRA) 1989 and 1990 equalization ratios for Sunapee and the surrounding towns. The board finds the Taxpayer's time adjustment arguments inconclusive as they were based only on the sales of similar property at different times.

Further, the board finds that the DRA's 1989 and 1990 ratios of 100% and 106% were derived from assessments that were, in part, based on the Town's time adjustments; thus to now find a different time adjustment would insert a new element of disproportionality relative to all other property in Town.

Based on the evidence, we find the correct assessments should be:

1989:

lot 6: land $384,750 lot 3: land only $14,200
building $109,200
total $493,950

1990

lot 6: land $384,750 lot 3: land only $14,200
building $115,400
total $500,150

This assessment is ordered because:

1) the land condition factor on lot 6 should be reduced to 4.75 to further account for the grade of the land to the water and existence of a dug well;

2) the land condition factor on lot 3 should be reduced to a .5 due to its small size, shape and utility; and

3) the board finds the Town's depreciation on the improvements to be reasonable.

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

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George Twigg, III, Chairman

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Paul B. Franklin, 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 Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

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Valerie B. Lanigan, Clerk