

Lee P. Page, Trustee

v.

Town of Sunapee

Docket No.: 8022-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$647,500 (land, \$516,200; buildings, \$131,300) on a 1.1-acre lot with a ranch house, bunk house and garage (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the lot is long and narrow and culverts had to be put in to deal with the water from the drain pipe which enters the lot;
- (2) the bunk house is for light seasonal use only and has a one foot deep line for water from the cottage, has no foundation and no heat and the total

cost to convert the building in 1988 was \$26,000;

(3) the Town has included a sewer assessment which is greatly in excess of its actual value to the site;

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 3

- (4) there is not a wide view of the lake from the lot and a site condition factor of 5.5 has been applied to the subject which is higher than the neighbors and the same as others with open, unobstructed views of the lake;
- (5) the water is only 24 inches deep off the dock; and
- (6) an inspection of the Property by Janis H. Wallace, New London Agency, estimated the fair market value as of May 29, 1989, to be \$535,000.

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 assessment.

The Town argued the assessment was proper because:

- (1) the Town's comparables, Buzzell and Burton, support the subject's condition factor, .5 was added for the second primary site;
- (2) the Property has a good deal of frontage but the added value was offset by wetness of the lot;
- (3) an adjustment is not usually made for shallow versus deep water unless it is so shallow that docking is prevented; and
- (4) had the Property not had sewer in the area, a higher condition factor would have been assigned to all of Woodland Road and the unit price would be less.

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 4

Based on the evidence, we find the correct assessment should be \$623,540 (land \$492,740; building \$130,800). This assessment is ordered because:

- (1) the condition factor should be reduced by .25 given the depth problem with the waterfront; and
- (2) the bunkhouse value was reduced by \$500 due to the 40 square-foot of unfinished area.

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 5

The board normally does not adjust for shallowness of water depth absent supporting market data. Some people want shallow water for young children; others want deeper water for older children. The board heard from both groups on the hearing date--all wanting abatements due to depth issues. In this appeal, however, an adjustment is warranted because the shallowness extends so far out that it adversely affects swimming and boating.

The Taxpayer did not present any credible evidence of the Property's fair market value. 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. The board did not place any weight in the realtor's letter submitted by the Taxpayer because it did not contain any of the sales or analysis upon which the value opinion was based. Moreover, given the sales data the board has received from the Town and other Taxpayers, the board concluded \$535,000 was woefully low for the Property.

If the taxes have been paid, the amount paid on the value in excess of \$623,540 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 6

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 7

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Lee P. Page, Trustee, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 25, 1992

Valerie B. Lanigan, Clerk

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 8

Lee P. Page, Trustee

v.

Town of Sunapee

Docket No. 8022-89

ORDER

This order relates to the "Taxpayer's" motion for clarification and/or rehearing. The motion fails to state any "good reason" or any issue of law or fact for granting clarification and/or rehearing. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Lee P. Page, Trustee

v. Town of Sunapee

Docket No.: 8022-89

Page 9

CERTIFICATION

I certify that copies of the within Order have this date been mailed, postage prepaid, to Lee P. Page, Trustee, Taxpayer; and Chairman, Selectmen of Sunapee.

Date: October 23, 1992

Valerie B. Lanigan, Clerk

0007