

Carolyn M. Reinke

v.

Town of Sunapee

Docket Nos.: 8025-89 and 10638-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$383,000 (land, \$288,000; buildings, \$95,000) and \$413,100 (land, \$288,000; buildings, \$125,100) respectively, on a .26-acre lot with a house and garage with a small apartment (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's expert, Ms. Hulme, explained the general methodology used in appraising the Property. She testified she reviewed approximately three 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) there are boulders on the lot that adversely affect access and use of the lot;
- (2) the Property has limited privacy;
- (3) an abutting house is in poor shape; and
- (4) the house has certain deficiencies, including small rooms and the effect of zoning that limits the house size.

Ms. Hulme estimated a 1989 value of \$330,000, and \$340,000 - \$350,000 for 1990.

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 assessments were proper because:

- (1) the Taxpayer's appraiser did not make adequate adjustments of the comparables;
- (2) the Lewis sale (Town sale 27) supported it; and
- (3) the Property was being renovated in 1989 and completed in 1990.

Based on the evidence, we find the correct assessments should be \$337,600 (land, \$268,800; building, \$68,800) for 1989 and \$367,700 (land \$68,800; building \$98,900). This assessment is ordered because the board has reduced the condition factor by .25 because the board does not find justification for the .5 added to the condition factor for the extra

structure, especially because the Town admitted the .5 is added without consideration to the type, size and use of the second structure. The board, therefore, reviewed the Taxpayer's appraisal and the Town's sales, especially Lewis. After the review, the board went back to the property-record card to maintain consistency. This change took the condition factor of 3.25 and added .25 for the garage apartment. For 1990, the board found the Taxpayer failed to carry the burden of showing the amount of renovations was not \$31,100 as indicated by the Town. Therefore, for 1990, the board added the Town's \$31,100 to the 1989 adjusted assessment.

If the taxes have been paid, the amount paid on the value in excess of \$337,600 (1989) and \$367,700 (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

George Twigg, III, Chairman

Ignatius MacLellan, 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 the Chairman, Selectmen of Sunapee.

Dated: August 10, 1992

Valerie B. Lanigan, Clerk