

Richard J. and Susanne W. Eaton

v.

Town of Sunapee

Docket Nos.: 8034-89 and 10664-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$531,900 (land, \$440,700; buildings, \$91,200) on a single family cape style dwelling on 0.48 of an acre of land on Birch Point Road (the Property). The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayers argued, in their written submittal, the assessments were excessive because the land assessed value is inequitable and disproportionate due to lot size (small).

Richard J. and Susanne W. Eaton

v. Town of Sunapee

Docket Nos.: 8034-89 and 10664-90

Page 2

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 Property is a year-round residence, a one and three quarter story home;
- (2) the assessments take into consideration the smaller lot size;
- (3) the property next door (Town comparable 33) sold in May, 1989 and supports the assessments; and
- (4) the assessments are correct and proper as stated.

The Town testified the Property's assessments were arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value will then be compared to the Property's assessments 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);

Richard J. and Susanne W. Eaton

v. Town of Sunapee

Docket Nos.: 8034-89 and 10664-90

Page 3

Appeal of Town of Sunapee, 126 N.H. at 217-18.

Richard J. and Susanne W. Eaton

v. Town of Sunapee

Docket Nos.: 8034-89 and 10664-90

Page 4

We find the Taxpayers failed to prove the Property's assessments were  
disproportional. We also find the  
Town supported the Property's  
assessments.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this  
date, postage prepaid, to Richard J. and Susanne W. Eaton, Taxpayers; and  
Chairman, Selectmen of Sunapee.

Dated: July 22, 1992

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Valerie B. Lanigan, Clerk

0007