

Martin L. Ernst and Sarah E. Bondy

v.

Town of Sunapee

Docket No.: 8041-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$586,800 (land, \$466,900; buildings, \$119,900) on a seasonal cottage on 0.70 acres of land on Lake Avenue in Georges Mills (the Property).

The Town recommended adjusting the assessment to \$520,300. For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was 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' 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 adjusted assessment was excessive because:

- (1) there were certain deficiencies in the Property;
- (2) 16-1/2 foot deeded strips of land abut the subject on either side providing access to approximately six lots for swimming only;

Martin L. Ernst and Sarah E. Bondy

v. Town of Sunapee

Docket No.: 8041-89

Page 3

(3) prior to 1989, the Property was owned jointly by three siblings; estimates from realtors for the buy-out from one sister arrived at a fair value of \$414,000 in mid-1989; and

(4) the fair market value as of April 1, 1989 is \$470,000.

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 adjusted assessment was proper because:

- (1) the strips of land providing access to the water are not on the subject Property;
- (2) consideration was given by the Town for topography and the right-of-way on the westerly side being close to the building;
- (3) the Town's comparable (Whitcomb) supports the assessment;
- (4) the Taxpayers' comparables, when time adjusted (and additional locational adjustment of 5 percent on comparable 3) arrive at an indicated range of values of \$507,700 to \$519,700;
- (5) the letter from one realtor, Mr. Wittman, stated that given a fair amount of time on the market, the estimate could be \$500,000; and
- (6) the adjusted assessment of \$520,300 is supported.

We find the Taxpayers failed to prove the Town's recommended assessment

Martin L. Ernst and Sarah E. Bondy

v. Town of Sunapee

Docket No.: 8041-89

Page 4

was disproportional. We also find the Town supported the Property's recommended assessment.

First, the board agreed with the Town that the Taxpayers' appraisal needed a time adjustment. 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:

Martin L. Ernst and Sarah E. Bondy

v. Town of Sunapee

Docket No.: 8041-89

Page 5

(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.

The board also agreed with the Town that Taxpayers' comparable 3 needed a five percent adjustment due to the Property's superior location and topography.

If the taxes have been paid, the amount paid on the value in excess of \$520,300 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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Martin L. Ernst and Sarah E. Bondy

v. Town of Sunapee

Docket No.: 8041-89

Page 6

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

Valerie B. Lanigan, Clerk