

Robert J. and Nancy G. Ludwig

v.

Town of Sunapee

Docket Nos.: 8043-89 and 10394-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$619,800 on a 3.2-acre lot on Lake Sunapee and across Garnet Hill Road with a house and other features (the Property). 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 the assessments were excessive because:

- (1) the Property is directly across from a condominium common docking area; and
- (2) they did not think they could sell the Property for the assessment.

The Taxpayers had no supportable opinion of the Property's fair market value.

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.

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The Town argued the assessments were proper because:

- (1) the Property is located directly on the water;
- (2) they are consistent with other assessments;
- (3) the normal condition factor would be 5.75-6.0, but the Town used a 5.25 condition factor because of the adverse effect of the condominium common area.

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 their burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been 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); Appeal of Town of Sunapee, 126 N.H. at 217-18.

We find the Taxpayers failed to prove the Property's assessments were disproportional. We also find the Town supported the Property's assessments, including making adequate adjustment for the location near the condominium common area.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert J. and Nancy G. Ludwig, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 10, 1992

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Valerie B. Lanigan, Clerk

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