Nancy K. Rumery

v.

Town of Sunapee

Docket Nos.: 8047-89 and 10609-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of $481,300 (land, $385,100; buildings, $96,200) on her real estate, consisting of a camp on a .4 acre lot on Lake Sunapee (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessments were 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 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 Taxpayer argued the assessments were excessive because:

(1) the lot has limited privacy due to the closeness of the abutting properties (abutting house is only a driveway width apart);

(2) the house sets on piers;

(3) the house is only partially insulated and the living room floor is buckled due to moisture problems; and

(4) the market value as indicated by an appraisal by Thompson Appraisal Co., Inc. was $430,000.

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 assessments.

The Town recommended at the hearing an adjusted assessment of $474,500 (land, 385,100, buildings, $89,400) for additional depreciation for the buckling floor and the design and lack of insulation in the building.

The Town argued the revised assessment was proper because:

(1) taxpayer's comparable #1 is in a cove location in Georges Mills and requires a greater locational adjustment than that given by the taxpayer's appraiser;

(2) greater time and locational adjustments need to be applied to the taxpayer's comparable sales, which, if made, result in an indication of value that supports the Town's adjusted valuation;

Board's Rulings

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:

(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.

Based on the evidence, we find the correct assessment should be $459,900 (land $385,100 and building $74,800). This assessment is ordered because:

1) while appraised as a year-round dwelling by the Town, the house has significant seasonal aspects that need to be recognized by an additional 15 percent depreciation; and

2) no further adjustments are needed to the land the closeness of the neighbor's dwelling is not so much from the norm of the neighborhood so as to warrant an adjustment

If the taxes have been paid, the amount paid on the value in excess of $459,900 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

Paul B. Franklin, 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 Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

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Valerie B. Lanigan, Clerk