

Burton E. Burton and Marilyn J. Burton

v.

Town of Sunapee

Docket Nos.: 8049-89 & 10702-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$494,200 (land, \$381,000; buildings, \$113,200) and \$494,700 (land, \$381,000; buildings, \$113,700) respectively, consisting of a year round residence on 0.25 of an acre of land on Birch Point Lane (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' 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. She also noted that

properties tend to sell for less when sold in the winter months when the market is slow.

The Taxpayers argued the assessments were excessive because:

(1) the lot is level consisting of 0.25 of an acre of land with 103.3 feet of frontage on the lake and 100 feet of frontage on Birch Point Lane;

- (2) the lot is improved with a 2,260 square foot year round residence, with a two-car garage, shed and dock;
- (3) the shoreline is rocky and the water is shallow and rocky making it difficult to navigate a boat to the dock;
- (4) the lot does not have a view of open water and privacy is limited as abutting properties are close to the subject; and
- (5) the fair market value of the Property is \$475,000.

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 argued the assessments were proper because:

- (1) all sales were adjusted 1 percent per month if they occurred prior to April 1, 1989 and if the Taxpayers' Burton comparable was time adjusted, it would have an adjusted value of \$494,400;
- (2) the Town observed sales for two and one half years and ran detailed statistical analyses which supported its adjustments;
- (3) resales of properties on the lake do not show that the Property is overassessed; and
- (4) the assessments are fair and proportionate.

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.

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

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 George R. Moore, Esq., counsel for Burton E. & Marilyn J. Burton, taxpayers; and the Chairman, Selectmen of Sunapee.

Dated: August 31, 1992

Melanie J. Ekstrom, Deputy Clerk

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