Mildred M. and Barbara A. Chase and
Chase Family Realty Trust

v.

Town of Sunapee

Docket Nos.: 8050-89 and 10720-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of $443,000 on a house with a .280-acre lot on Lake Sunapee (the Property). The Town recommended an adjustment to $388,800 for 1989 and $392,100 for 1990. For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved disproportionality.

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 assessments were excessive because:

(1)there is limited parking and steep access;

(2) the building has certain deficiencies (especially its seasonal nature);

(3) the abutting house is very close, reducing privacy; and

(4) Ms. Hulme's appraisal estimated a $345,000 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.

The Town argued the adjusted assessments were proper because:

(1)adequate adjustments were made to the assessments to address the Taxpayers' concerns;

(2) time adjusting the Taxpayers' comparables results in a $364,500-$379,600 range for the Property; and

(3) the adjusted assessments are within an acceptable range.

Based on the evidence, we find the correct assessments should be $380,000 for 1989 and $383,300 for 1990. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.) The parties agreed the Rome sale was a good comparable, and the board concurs. The Rome property sold for $364,000 on September 30, 1987.

The Rome property compares to the Property as follows:

The Property	Rome Property
land	.25 acre	.2 acre (waterfront lot only)
lake frontage	107 feet	77 feet
building size	1,680 s.f.	1,540 s.f.
boathouse & dock	yes/yes	yes/yes

The Rome sale price must be adjusted for time and back lot value. The parties' agree the back lot was worth approximately $30,000, resulting in a $334,000 adjusted price. The Taxpayers asserted a 10% adjustment was

warranted, which works out to approximately .6%/month over 16 months. The Town asserted values continued to increase through April 1, 1989.

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.

The board finds even using a time adjustment of 1%/month from September, 1987 through April, 1989, results in a time-adjusted, land-adjusted, sales price of $387,440 for the Rome sale. This time adjustment might include times without

increase and times with rapid increase, e.g., 1987-1988 using 2%/month. There is no way the Property is worth $42,440 less than the Rome property ($387,444 (adjusted sales price of Rome) - $345,000 (Taxpayers' appraised value)). No, these properties have similar value with some adjustments for certain superior features of Rome, including building condition, the Rome waterfront lot was assessed for $385,500. Therefore,

given this evidence, including the Rome assessment and adjusted sale price, we find a $380,000 value.

If the taxes have been paid, the amount paid on the value in excess of $380,000 (1989) and $383,300 (1990) 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

Ignatius MacLellan, Esq., 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 Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

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Valerie B. Lanigan, Clerk