

Sunny Knoll Improvement Association

v.

Town of Sunapee

Docket No.: 8051-89

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$521,300 (land, \$356,300; buildings, \$165,000) on its real estate on Sunny Knoll Rd., consisting of a boatslip on .58 acre lot on Lake Sunapee (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was 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 failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the land is assessed at a higher value per front foot than comparable land;
- (2) the Property is of non-conforming size and fronts on a private road;
- (3) there are high tension wires crossing the lot; and

(4) two of the eleven owners also have boathouses that can be transferred only with property owned by members of the Association; thus for at least two of the eleven interests in the Property, there is some duplication of access to the lake.

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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 assessment was proper because:

- (1) the comparables used by the Taxpayer have a different type of ownership and one does not have a boatslip as the Taxpayer does;
- (2) highest and best use of the property is as water access for the eleven non-waterfront lots;
- (3) the water access value was derived from Town's comparables #58 and #59 and #39 through #46; and
- (4) the wires crossing the lot are not what are normally considered as high tension wires.

### **Board's Ruling**

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment. We find the Town used consistent methodology in appraising the land and the boatslip rights. The Taxpayer's analysis solely on a front foot basis does not adequately account for differences between its comparables for lot size, type of ownership and associated rights or lack there of (boatslips, docks, boathouses, etc.).

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Averaging front foot values, as done by the Taxpayer, does not necessarily prove "disproportionality"; it only proves that the Taxpayer's Property is assessed more than the average property. Appraisals are not averages; rather they are the correlation of general sales data to the unique characteristics of a specific property.

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The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Herbert Carl Richter, Representative for the Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 19, 1992

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Valerie B. Lanigan, Clerk