

Donald E. Aronson

v.

Town of Sunapee

Docket Nos.: 8067-89 and 10560-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments on Map 17 Lot 11 of \$561,300 (land, \$393,800; buildings, \$167,500) and Map 17 Lot 16 of \$46,400 (land only). Map 17 Lot 11 consists of a ranch style dwelling on 0.55 of an acre on Scotts Cove Road and Map 17 Lot 16 consists of 2.20 acres of land on Fernwood Road (the Properties). 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 argued the assessments were excessive because:  
(1) a May 16, 1991 letter from Thompson Appraisal indicated the Properties are overvalued between \$11,300 and \$51,300 for 1989 and 1990;

- (2) the methodology used by the Town results in disproportionality;
- (3) a recent newspaper article indicating that Avitar was recommending the Town plan a 1993 valuation update raises questions as to the validity of the assessment;
- (4) in 1991, Town sewer was installed, increasing the assessment by \$23,800;

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(5) the value placed on the boathouse is excessive because the boathouse needs repairs estimated at \$25,000 therefore the value of the boathouse should be \$5,000;

(6) the leach field is on the back lot and the telephone company has an easement on that lot; and

(7) an individual buying the waterfront would want to purchase the back lot with it.

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 (#s 7, 9, 10, 15 and 31 in Town Exhibit B) to support the assessments.

The Town argued the assessments were proper because:

(1) Map 17 Lot 11 is a well kept, nicely landscaped, desirable Property with a good view;

(2) the boathouse was in slightly above average condition compared to boathouses generally on Lake Sunapee; and

(3) the increase in value in 1991 for the Property going on Town sewer reflected the value (in addition to the cost to hook on) added to the Property by removing the maintenance and disclosure liability of a private septic system.

The Town did concede that the "rear" lot in 1989 and 1990 was encumbered with the leach field for the "lake" lot, could not be subdivided and thus should

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receive some adjustment for that fact.

Based on the evidence, we find the correct assessment should be:

Map 17 Lot 11 - \$561,300 and Map 17 Lot 16 - \$35,150. These assessments are ordered because:

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- (1)the rear lot (Lot 16), without Town sewer in 1989 and 1990, should be considered as supplemental land in support of the lake lot (Lot 11) due to the leach field being located on it. (See RSA 75:9 Separate Tracts);
- (2)the value in place (i.e., its legal grandfathering value) of the boathouse is reasonably estimated by the Town notwithstanding its need for repairs; and
- (3)the Town's sales support this total revised assessment of \$596,450.

If the taxes have been paid, the amount paid on the value in excess of \$596,450 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

Paul B. Franklin, Member

Michele E. LeBrun, Member

#### CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald E. Aronson, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

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Valerie B. Lanigan, Clerk

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