

Marion Lynch
v.
Town of Sunapee

Docket No. 8070-89

Marion Lynch and George Lynch
v.
Town of Sunapee

Docket No.: 10658-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$376,700 (land, \$244,400; buildings, \$132,300) on Map 27, Lot 29, consisting of .34 acres, with 95 foot frontage on Lake Sunapee improved with a winterized cottage built in 1928 (Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was 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 argued the assessment was excessive because:

(1) the Property is in a no swim zone;

- (2) the lot has a short view of the opposite side of the harbor with no open lake views;
- (3) the lot slopes from the road to the lake;
- (4) the cape type cottage was converted to year round use in 1972; and
- (5) an appraisal performed by Capital Appraisal Associates shows a \$300,000 value on April 1, 1989.

The Town argued the assessment was proper because:

- (1) the site was serviced by Town water and sewer;
- (2) the Town submitted two sales (27 and 22), both in the no swim zone, as most comparable to the subject;
- (3) two listing errors were corrected; vinyl siding not aluminum and hot air heat not hot water; the listing does not change the value;
- (4) the Taxpayers' error in comparable one shows 1.5 acres - actually .17 acres (TN sale 27);
- (5) the Taxpayer's comparable one was in poor condition at the time of the sale, substantially renovated, and offered for \$339,000;
- (6) Taxpayer's comparable two had no adjustments for inferior lot size and frontage and inferior condition and utility of the house;
- (7) the Taxpayer's appraisal gives only \$75,000 for improvements, Town estimates a \$132,300 added value.

Board's Rulings

The Board finds substantial discrepancies in the Taxpayers' adjustments to comparables as well as an accuracy problem. Further, it is noted that the Taxpayers' appraisal report by Mr. Hill shows only one of the three

comparables used were inspected. The other two considered were based solely on Town records and a multiple listing description.

We find the Taxpayers failed to prove the Property's assessment was disproportional.

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., counsel for Marion & George Lynch, taxpayers; and the Chairman, Selectmen of Sunapee.

Dated: September 10, 1993

Valerie B. Lanigan, Clerk