

Henry H. Stone and Morton D. Shurtleff

v.

Town of Sunapee

Docket Nos.: 8074-89 and 10706-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments as follows:

1989: map 17 lot 25 - \$371,400 (land, \$351,800; buildings, \$19,600)

map 17 lot 33 - \$34,300 (land only);

1990: map 17 lot 25 - \$369,400 (land, \$351,800; buildings, \$17,600)

map 17 lot 33 - \$34,300 (land only).

Map 17 lot 25 consists of a mobile home on a .41 acre lot on Lake Sunapee and lot 33 consists of a .36 acre unimproved lot on West Shore Rd. (the Property). 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 argued the assessments were excessive because:

- (1) on the advice of a realtor, the Property was listed in 1990 for \$350,000;
- (2) the improvement is probably the only mobile home on Lake Sunapee;
- (3) the water supply is from the lake;

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(4) the mobile home is 10 by 47 feet, 27 years old and of little contributory value to the Property as a whole; and

(5) three sales of waterfront properties further in the inlet of Jobs Creek sold in 1989 in a range of \$265,000 to \$275,000.

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 recommended at the hearing a revised assessment for lot 25 of \$351,800 (land, \$334,200; buildings, \$17,600) due to a correction in the listing of the docks and a lowering of the condition factor to be consistent with other similar properties.

The Town argued the revised assessment was proper because:

(1) Town sales #2 and #7 are the most comparable sales as far as location to the Taxpayer's Property and support the revised assessment.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$334,200 (land \$316,600 and building \$17,600) for lot 25 and \$34,300 for lot 33. This assessment is ordered because:

1) the land condition factor on lot 25 should be reduced to 4.50 for the minimal site

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work in place for the mobile home; and

2) the Taxpayer did not provide any conclusive evidence that lot 33 was overassessed.

If the taxes have been paid, the amount paid on the value in excess of \$368,500 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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 Henry H. Stone and Morton D. Shurtleff, Taxpayers; and Chairman, Selectmen of Sunapee.

Dated: August 14, 1992

Valerie B. Lanigan, Clerk