

Estate of Mary L. Norris

v.

Town of Sunapee

Docket No.: 10639-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$675,100 (land \$520,400; buildings \$154,700) on a 1.2-acre lot with a house (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) the 100-year old camp is seasonal only and has no insulation or heat, and the plumbing and wiring are original to the camp;

Page 2

Norris Estate v. Town of Sunapee

Docket No.: 10639-90

(2) an April, 1990 appraisal estimated a \$450,000 value; a May, 1990 appraisal estimated a \$475,000 value; and a February, 1991 appraisal estimated a \$410,000 value;

(3) an offer to purchase was made for \$400,000 in 1991, and was to include all furnishings and an antique electric boat and canoe worth \$72,205;

(4) the Town's zoning regulations prevent subdivision or expansion;

(5) the Property's access is dangerous because of traffic; and

(6) the assessment should be \$475,000.

The Town argued the assessment was proper because:

(1) the assessment is based on 23 sales used to establish the values for the 1989 revaluation;

(2) the same methodology was used throughout the Town;

(3) the Property has 380 feet of waterfront, 420 feet of road frontage, and has good lake views and privacy;

(4) the Property is serviced by Town water and sewer, and has a two-story seasonal cottage, a two-story guest house, and a boat house;

(5) the assessment considered the Property's condition, and the lack of heat, insulation and foundation;

(6) the Taxpayer's three appraisals were flawed because one had no comparables to support the assessment, one is a realtor's undated letter and is only an opinion of value with no supporting documentation, and the last uses island properties as comparables, which comparables sold for 40-50% less than mainland properties and are not on Lake Sunapee.

Page 3

Norris Estate v. Town of Sunapee

Docket No.: 10639-90

The board's inspector reviewed the assessment-record card and the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment was proper. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. The board did not rely upon the inspector's report in any way.

Board's Rulings

Based on the evidence, the board denies the appeal, finding the Taxpayer did not prove disproportionality. The Taxpayer's main argument was based on three main documents: (1) the Perry Smith value opinion; (2) the William Smith value opinion; and (3) the Clancy appraisal. The board did not find this evidence persuasive. Both the Perry Smith and the William Smith value opinions did not provide any data that the board could review, and thus the board was unable to rely upon the information. Additionally, the board disagrees with Mr. William Smith's letter submitted with the Taxpayer's rebuttal that indicated that auction sales should be used.

Concerning the Clancy appraisal, the board found the report to be flawed. First, the board agrees with the Town that an adjustment should have been made to comparables two and three, or the appraiser should have explained

why no adjustment was warranted. Moreover, the appraiser apparently had the wrong data for comparable number one, and we direct the Taxpayer's attention to the discrepancies between comparable number one's assessment-record card

Page 4
Norris Estate v. Town of Sunapee
Docket No.: 10639-90

and the data used in the comparison grid. Specifically, the lot and building size are significantly different, and the card does not indicate any dock while the appraisal indicates a four-boat dock. Given these deficiencies, the board could not rely upon the Clancy appraisal or on the other opinions of value.

Finally, the board did not accept the Taxpayer's statements concerning value based on the price as sold by the estate or as offered by the estate because insufficient information was presented to show that those values were based on market values. Having found no credible evidence, the board denies the appeal.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to James C. Cleveland, Esq., Attorney for the Estate of Mary L. Norris, Taxpayer; and Chairman, Selectmen of Sunapee.

Dated: September 10, 1993

Lynn M. Wheeler, Deputy Clerk

0005