

John Chiarella and Dona Chiarella

v.

Town of Sunapee

Docket No. 10717-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$667,400 (land, \$429,500; buildings, \$237,900) at 256 Garnet Hill Road, consisting of 2.5-acres and dwelling on Lake Sunapee (the Property). The Taxpayers 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 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 carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the Property is not assessed in relation to other properties in Town;
- (2) the lot is worth less due to activities and noise from Grandliden Condos;

and

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(3) a sale occurring in 1991, with frontage on the lake and a similar view sold for \$250,000.

The Town argued the assessment was proper because:

- (1) it was derived from sales of similar properties between April 1, 1987 and November 1, 1989;
- (2) the lot is in one of the most desired neighborhoods on the Lake;
- (3) the location of the house and the large size of the lot affords privacy and insulates the property from activities by Grandliden Condos;
- (4) a real estate listing of the Taxpayers' Property in December of 1990 was listed for \$795,000 and in July 1992 is listed for \$695,000; and
- (5) comparable sales support the Taxpayers' assessment as proper.

We find the Taxpayers failed to prove the Property's assessment was disproportional. The board finds the Town appropriately reduced the Taxpayers' land condition factor to 4.75 to account for the configuration of the lot and the location of the house on it. As submitted by the Town, the Taxpayers' land value was 15% to 20% lower than abutting properties with better lot configuration.

The Taxpayers' 1990 asking price of \$795,000, while surely not a sale price, is some evidence of what the owner, the listing realtor, felt was a price at which to list the Property. Further, the listing of the Property describes the lot as 3.4 acres while the Town has it assessed based on a 2.5 acre lot.

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

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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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John & Dona Chiarella, taxpayers; and the Chairman, Selectmen of Sunapee.

Dated: May 10, 1993

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Melanie J. Ekstrom, Deputy Clerk