

Gloucester Engineering Co.

v.

Town of Merrimack

Docket No. 3385-86

DECISION

A hearing in this appeal was held, as scheduled, on September 6, 1989. The Taxpayer was not represented. The Town was represented by Dominic S. D'Antoni, Assessor.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$278,200 (land, \$80,840; buildings, \$197,360) placed on their real estate, located on 7 Webb Drive (Map 2D, Lot 35) for the 1986 tax year. The property consists of 4.168 acres of land improved by a machine shop and paving.

Neither party challenged the Department of Revenue Administration's equalization ratio of 47% for the 1986 tax year for the Town of Merrimack. Based on that ratio the Taxpayer assessment equates to a market value of \$591,914.

The Taxpayer argued it was overassessed because the market value of the subject property was less than the equalized value and the assessment was based on erroneous square footage, a sprinkler system that was not there and insufficient physical depreciation.

The Town's position was the Taxpayer had failed to present any evidence of market value and therefore failed to meet its burden of proof. The Town stated the measurements were checked and found to be correct, but that the Taxpayer had been incorrectly assessed for a sprinkler system. However, the \$4,000 deduction for the sprinkler system was offset by the omission of a \$4,000 assessment for 8,000 square feet of asphalt paving.

The Board's review appraiser concurred with the Town on square footage,

the sprinkler system and the asphalt paving but found the 300 square foot metal

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shed to be overassessed at \$26,600. He recommended an assessment of \$16 a square foot or \$4,800 a figure the Town agreed was reasonable.

The Taxpayer's appeal is based on the Constitution of New Hampshire, Part 2, Article 5, which states in part:

And further, full power and authority are hereby given and granted to the said general court, from time to time, . . . to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within, the state, and upon all estates within the same

and RSA 75:1 (supp.) which states:

Except with respect to open space land appraised pursuant to RSA 79-A:5, and residences appraised pursuant to RSA 75:11, the selectmen shall appraise all taxable property at its full and true value in money as they would appraise the same in payment of a just debt due from a solvent debtor, and shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

"The relief to which [the taxpayer] is entitled is to have its property appraised for taxation at the same ratio to its true value as the assessed value of all other taxable estate bears to its true value. Boston & Maine R. v. State, 75 N.H. 513, 517; Rollins v. Dover, 93 N.H. 448, 450." Bemis v. Claremont, 98 N.H. 446, 452 (1954).

It is well established that the taxpayer has the burden of demonstrating that he is disproportionately assessed. Lexington Realty v. City of Concord, 115 N.H. 131 (1975), Vickerry Realty v. City of Nashua, 116 N.H. 536 (1976), Amsler v. Town of South Hampton, 117 N.H. 504 (1977), Public Service v. Town of Ashland, 117 N.H. 635 (1977), Bedford Development v. Town of Bedford, 122 N.H. 187 (1982), Appeal of Town of Sunapee, 126 N.H. 214 (1985), Appeal of Net Realty Holding, 128 N.H. 795 (1986).

The Board finds the figures of the Board's review appraiser to be the best evidence of value.

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For the above stated reasons the Board rules that the proper assessment for the 1986 tax year is:

Land	\$84,840
Buildings	<u>\$171,800</u>
Total	\$256,640

If the taxes have been paid, the amount paid on the value in excess of \$256,640 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esquire, Chairman

(Mr. Twigg did not sit.)
George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Henry P. Schieffer, Manager, representative for Gloucester Engineering Co., taxpayer; and the Chairman, Selectmen of Merrimack.

Michele E. LeBrun, Clerk

Date:

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