

**Robert A. McQuade**

**v.**

**Town of Canaan**

**Docket No. 3634-87**

**DECISION**

A hearing in this appeal was scheduled for March 23, 1989. Neither the Taxpayer nor the Town was represented. Accordingly, we decide this appeal based on the evidence before us.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$20,500 (land, \$13,100; buildings, \$7,400) placed on his real estate, located on West Shore Road for the 1987 tax year.

The property consists of a parcel having 162 feet of frontage on Goose Pond adjacent to the dam. The buildings consist of a cottage and a garage.

The equalization ratio as determined by the Department of Revenue Administration for the 1987 tax year for the Town of Canaan was 40 percent. Based on that ratio, the Taxpayer's assessment equates to a market value of \$51,250.

In his request for abatement, the Taxpayer argued that the cottage has no value, not even salvage value, due to its serious deterioration. He stated that the building has been uninhabitable since 1986 and that he no longer carries insurance on the buildings since he is planning to demolish it in the spring of 1988.

The Taxpayer submitted on a questionnaire sent him by the Board that he had purchased the property in June 1984 for \$30,000.

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The Board's review appraiser's report, accompanied with photos, stated that the buildings were in "poor shape" and adjusted the building value from \$7,400 to \$2,700.

In regard to the Taxpayers allegation the Board rules as follows.

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. 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),

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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 that the Taxpayer did not submit any sales of comparable properties as evidence of his claim of overassessment.

The Board finds that the photos submitted with the review appraiser's report do not support the Taxpayers claim that the buildings have no value. The photos were taken in December of 1988, well after the Taxpayers intended date of demolition. The Board finds that the evidence fails to prove that the buildings do not have at least storage or salvage value.

The Board finds that the Taxpayer also failed to prove that any reduction in value of the buildings was not at least offset by appreciation in land value. It has been the Board's experience that waterfront property has escalated at a rate above the norm for all other property, and thus it is conceivable, that lacking evidence to the contrary, the land portion of the Taxpayer's assessment could be underassessed. The Board, in determining whether a Taxpayer is disproportionately assessed, must take into consideration all components of the Taxpayer's valuation. This concept is affirmed in Appeal of Town of Sunapee (1985) 126 N.H. 26, 332 A2d 390. ". . . a taxpayer is not entitled to an abatement on any given parcel unless the aggregate valuation placed on all of his property is unfavorably disproportionate to the assessment of property generally in the town. Bemis &c. Bag Co. v. Claremont 98 N.H. 446, 449, 102 A.2d 512, 516 (1954). "Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellant." Amoskeag Mfg. Co. v. Manchester, 70 N.H. 200, 205, 46 A. 470, 473 (1899)"

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in

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excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

—

Anne S. Richmond, Esquire, Chairman

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George Twigg, III, Member

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Peter J. Donahue, Member

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Paul B. Franklin, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert A. McQuade, taxpayer; and the Chairman, Selectmen of Canaan.

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Michele E. LeBrun, Clerk

Date:

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