

Ernst K. Dierks
v.
Town of Charlestown

Docket No. 3636-87

DECISION

A hearing in this appeal was held, as scheduled, on August 23, 1989. The Taxpayer represented himself. The Town was not represented.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$3,250 placed on his real estate, located on Unity Stage Road for the 1987 tax year. The property consists of approximately six acres of undeveloped land.

Neither party challenged the Department of Revenue Administration's equalization ratio of 63% for the 1987 tax year for the Town of Charlestown. Based on that ratio, the Taxpayers assessment equates to a market value of \$5,160.

The Taxpayer described the parcel as a narrow strip of land between Unity Stage Road and Little Sugar River that is mostly inaccessible due to slope and wetness. He testified that the land was purchased in 1969 for lumber value but to date no timber has been cut. He stated that an access point was bulldozed onto the lot approximately 15 years ago, but that it has never been used nor is it feasible to be used due to the poor drainage.

In regard to the Taxpayer's 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

Ernst K. Dierks v. Town of Charlestown

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 that the Towns appraisal card adjusted the base rate of \$5,500 for one front acre by 50% for the topography and river, and the other 5 acres were assessed at \$100 per acre.

The Board finds that, based on the testimony, the entire parcel appears to be undevelopable due to grade and wetness. For that reason, the Board rules that the one front acre should receive an additional 20% adjustment resulting in a new correct assessment of \$2,150.

Ernst K. Dierks v. Town of Charlestown

If the taxes have been paid, the amount paid on the value in excess of \$2,150 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: September 7, 1989

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Ernst K. Dierks, taxpayers; and the Chairman, Selectmen of Charlestown.

— Michele E. LeBrun, Clerk

Date: September 7, 1989

0009