

Thomas Gebo and Carole Gebo

v.

Town of Meredith

Docket No. 3711-87

DECISION

A hearing in this appeal was held, as scheduled, on April 14, 1989. The Taxpayers represented themselves. The Town was represented by Debbie Pelczar, Assessing Coordinator and Sean M. Casey, Appraiser from M.M.C., Inc.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$149,500 (land, \$113,800; buildings, \$35,700) placed on their real estate, located on Lake Winnisquam for the 1987 tax year. The property consists of 2.08 acres with 112 feet of frontage on Lake Winnisquam and a cottage.

Neither party challenged the Department of Revenue Administration's equalization ratio of 96 percent for the 1987 tax year for the Town of Meredith. Based on that ratio the Taxpayers' assessment equates to a market value of \$155,729.

The Taxpayers contested mostly the land value although they also stated they do not have the boathouse that was assessed for \$300. The Taxpayers testified that the access to their cottage was steep and that the backland was ledgy and steep and unusable. The Taxpayers argued that two nearby properties, Rist with 21.36 acres and Ryan with 11.14 acres, were assessed less on a per acre basis than the Taxpayer's property.

The Taxpayers also stated that the assessment was excessive in relation to the amount of services their seasonal property receives from the Town.

The Town stated that in review that there was no boathouse and thus the building value should be reduced by \$300. The Town also stated that the 10

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percent adjustment originally applied to the homesite and subsequently removed should be reinstated as it properly recognizes the steep access to the homesite. This would result in a revised land value of \$104,700.

The Town argued that the majority of the value of the land is in the "first acre" or homesite and consequently comparing different size parcels on a per acre basis, as the Taxpayer had, is not reflective of market value.

The Town submitted as support for the land value a sale of a comparable property that was assessed for \$237,800 and sold in March of 1988, for \$289,000.

The Board's appraiser, in his valuation of the property, made an adjustment of 10 percent to the land value for the steep access to the property.

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).

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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 further rules that market value not demand on services is the basis for appraising taxable property.

RSA 75:1 How Appraised. 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. Emphasis added.

The Board finds that the "boathouse" value of \$300 should be removed. Further, the Board finds that the homesite value should be adjusted by 10 percent to account for the steepness of access.

In summary the assessed value for 1987 should be as follows:

Land	\$113,800
Building	<u>35,400</u>
Total	\$149,200

If the taxes have been paid, the amount paid on the value in excess of \$149,200 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

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(Mr. Twigg did not sit.)
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 Thomas & Carole Gebo, taxpayers; and the Chairman, Selectmen of Meredith.

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Michele E. LeBrun, Clerk

Date: