

**Thomas A. Heydon and Helen L. Heydon
v.
Town of Greenland**

**Docket No. 3787-87
Docket No. 4168-88**

DECISION

These two appeals, having been consolidated for hearing, were heard, as scheduled, on January 26, 1989. The Taxpayers represented themselves. The Town was represented by Stephen G. Traub, M.M.C. Vice President and Richard Rugg, Selectman.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$255,000 (land, \$98,900; buildings, \$156,100) placed on their real estate, located on 48 Post Road (Map U Lot 3-16) for the 1987.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$225,600 (land, \$98,900; buildings, \$156,700) placed on the same real estate for the 1988 tax year.

Neither party challenged the Department of Revenue Administration's equalization ratio of 100 percent for the 1987 tax year for the Town of Greenland. Based on that ratio the Taxpayers assessment equates to a market value of \$225,000 on April 1, 1987.

The Taxpayers argued they were overassessed because of the 187 percent increase in their assessment from the 1982 assessment when no changes had occurred on the property. The Taxpayers felt the increase should have been 147 percent based on the average increase in assessment from 1982 to 1987 of 57.7 percent of the properties listed in the 1982 tax assessment roster. The Taxpayers argued the 187 percent increase was inordinately high in light of

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Boston and national real estate inflation rates. The Taxpayers stated the value of the subject property based on the 1967 purchase price of \$30,000 multiplied by the consumer price index percentage increment from 1968 to 1987 was \$97,782. The Taxpayers stated the wide range in percentage increases in assessments from 1982 to 1987 (29 percent to 209+ percent) indicated the Taxpayers assessment was incorrect and the Town-wide reassessment was arbitrary and inconsistent. The Taxpayer alleged the Town-wide assessment was poorly done based on wide disparities between the assessments and sales prices.

The Town's position was the Taxpayers were fairly assessed since the market value of their property on April 1, 1987, was \$255,000 based on comparable sales. The Town alleged the \$225,000 arrived at using the cost approach (Marshall Swift) did not give the true value since the subject property had antique value not reflected in that cost approach. The Town stated the subject property was in a nice area with other antique federal style houses nearby. The Town stated that some of the other properties referred to by the Taxpayers had different assessments than the sales prices because they were assessed on a current use basis not a market value basis. One sold for substantially more than its assessments because the building was more complete at the time of sale than at the time of assessment.

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:

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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).

Since no one disputed the Department of Revenue Administration's equalization ratio of 100 percent for the 1987 tax year the Taxpayers must establish that the market value of their property was less than \$255,000 on April 1, 1987.

A greater percentage increase in an assessment following a Town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in

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general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

. . . the board calculated the market value of the taxpayers' lots and multiplied each lot's value by the town-wide . . . equalization ratio. This is all the law affords any taxpayer: to have one's property taxed at the same rate as property is taxed in the town as a whole, and not in comparison to a class of similar property. This rule of proportionality was stated long ago in Amoskeag Mfg. Co. v. Manchester, 70 N.H. 200, 46 A. 470 (1899), and recently in Appeal of Town of Sunapee, 126 N.H. 214, 217, 489 A.2d 153, 155 (1985).

Appeal of Cannata, 129 N.H. 399, 401 (1987)

Underassessments of other properties in the Town can be challenged by the Taxpayers pursuant to RSA 71-B:16 I.

The Board finds as follows. The market value of the subject property was \$255,000 on April 1, 1987. This figure is based on the market approach appraisal presented by Mr. Traub and the abated value determined by Mr. Traub that was based on the cost approach. No evidence of market value was presented by the Taxpayers. The Board knows of no real estate sale price based on a 10 year old sale times the consumer price index change or based on a five year old assessment times the average increase in assessment.

The Board therefore rules the Taxpayers have failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayers' 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

George Twigg, III, Member

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Peter J. Donahue, Member

Date: 2/8/89

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Thomas A. & Helen L. Heydon, taxpayers; and the Chairman, Selectmen of Greenland.

Michele E. LeBrun, Clerk

Date: 2/8/89

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