

**Michael F. Mayo-Smith and Janet M. Mayo-Smith**  
**v.**  
**City of Franklin**

**Docket No. 3845-87**

**DECISION**

A hearing in this appeal was held, as scheduled, on April 11, 1989. The Taxpayer was represented by Michael F. Mayo-Smith, one of them. No one was present from the City of Franklin.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$113,200 (land, \$10,150; buildings, \$103,050) placed on their real estate, located on Meadowood Drive for the 1987 tax year.

Neither party challenged the Department of Revenue Administration's equalization ratio of 53 percent for the 1987 tax year for the City of Franklin. Based on that ratio the Taxpayers' assessment equates to a market value of \$213,600.

The Taxpayer argued that the assessments in the Meadowood development were generally higher than comparable properties elsewhere in Franklin. He stated that his house was given a grade factor of 1.25 while comparable homes outside Meadowood development (some built by the same contractor with similar material) were graded with a 1.10 or 1.15 factor. He testified that his garage was only one story high having no storage area or attic overhead but that it had been assessed as having an attic. He argued that the area connecting the garage to the house should not be assessed as one story living area but rather as a finished breezeway without heat.

Upon questioning he testified he had purchased the property new and fully constructed in August, 1986, for \$157,700. He further stated that he estimated

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that the property is worth today between \$180,000 and \$200,000 but that other homes nearby in this price range have not sold for 2-3 years.

The Board rules that 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.

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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 1987 equalization ratio for the City of Franklin to be 53 percent.

The Board finds that the appropriate grade of the house to be 1.10, and further that the garage is one story with no attic and the area between the house and garage to be a finished breezeway.

Based on the above facts, the building assessment correctly calculated is as follows:

1221 . . . . .	\$63,921	
Bsmt . . . . .	7,230	
Plbing . . . . .	2,250	
Add & Porches . . . . .	<u>7,310</u>	(garage 4,600; brzwy & op 2,710)
Total	\$80,711	
Grade	x <u>1.1</u>	
Total	\$88,782	
Other features	<u>2,790</u>	
Total buildings value	\$91,570	(rounded)
Land value	<u>10,150</u>	
Total	\$101,720	

If the taxes have been paid, the amount paid on the value in excess of \$101,720 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

George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: 5/2/89

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Michael F. & Janet M. Mayo-Smith, taxpayers; and the Chairman, Board of Assessors of Franklin.

Michele E. LeBrun, Clerk

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Date: 5/2/89

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