

**Peter H. Lewis and Susan K. Lewis**

**v.**

**Town of Moultonborough**

**Docket No. 4057-87**

**DECISION**

A hearing in this appeal was held, as scheduled, on July 18, 1989. The Taxpayers represented themselves. The Town was represented by Steve M. Allen, Assessor.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$608,000 (land, \$120,000; buildings, \$488,000) placed on their real estate, located on Harbourside Drive (Map 12, Lot 105 S) for the 1987 tax year. The property consists of a 2300 square foot dwelling and the land under and around it situated on approximately 65 acres of land owned in common with the other owners of fifteen condominium lots.

Neither party challenged the Department of Revenue Administration's equalization ratio of 71% for the 1987 tax year for the Town of Moultonborough.

Based on that ratio the Taxpayers assessment equates to a market value of \$856,338.

The Town stated an error was made on the assessment card listing the area of the dwelling at 3200 square feet when it should have been 2300 square feet.

The total corrected assessment was \$437,000.

The Taxpayers argued the proper assessment was the corrected figure of \$437,00 times the equalization ratio of 71% or \$310,270. The Taxpayers stated the market value of the subject property on April 1, 1987 was \$525,000. That figure was based on the recent sale of an identical house for \$425,000 and on an appraisal by an insurance company of \$525,000. The Taxpayers said their insurance also provided coverage of \$100,000 for personal property. The

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Taxpayers stated the developer paid about \$1,000,000 for the undeveloped 65 acres with permits in place.

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), 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).

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The Board finds as follows. The subject property was sold by the developer to the Taxpayers for \$570,000 on October 31, 1986. The sale price included a \$30,000 discount because the Taxpayers were the first to buy. The equalization ratio for the 1987 tax year was 71%. The equalized value of the Town's recommended assessment is \$615,492. Both the undiscounted price and discounted sale price are within 10% of the equalized value of the Town's recommended assessment.

For the above stated reasons the Board rules that the proper assessment for the 1987 tax year is:

Land	\$120,000
Buildings	<u>\$317,000</u>
Total	\$437,000

If the taxes have been paid, the amount paid on the value in excess of \$437,000 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

(Mr. Donahue did not sit.)  
Peter J. Donahue, Member

Paul B. Franklin, Member

Date: July 27, 1989

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Peter H. & Susan K. Lewis, taxpayers; and the Chairman, Selectmen of Moultonborough.

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Michele E. LeBrun, Clerk

Date: July 27, 1989

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