

Ronald W. Nelson
v.
Town of Sugar Hill

Docket No. 4069-87

DECISION

A hearing in this appeal was held, as scheduled, on August 22, 1989. The Taxpayer represented himself. The Town was not represented.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$79,050 (land only) placed on his real estate, located on Dyke and Presby Roads. The property consists of 9.48 acres.

Neither party challenged the Department of Revenue Administrator's equalization ratio of 100 percent for the 1987 tax year for the Town of Sugar Hill. Based on that ratio the Taxpayer's assessment equates to a market value of \$79,050.

The Taxpayer argued he was overassessed based on the property being one buildable lot of 9.48 acres, part of which is subject to a Public Service easement and part of which is subject to a New Hampshire Electrical Cooperative easement. The Taxpayer argued the subject property did not have a market value of \$79,050 based on an appraisal by White Mountain Appraisals for \$43,100 as of May 10, 1988, the appraisal of the Board's review appraiser for \$51,600 as of April 1, 1987, and the Taxpayer's current asking price of \$59,900.

Ronald W. Nelson v. Town of Sugar Hill

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 with 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 B.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 as follows. The subject property was assessed as one lot as of April 1, 1987, even though it is split by Presby Road. The Taxpayer

Ronald W. Nelson v. Town of Sugar Hill

received two appraisals of his property, one for \$43,100 and one for \$59,900 which was not submitted to the Board. The Taxpayer put the subject property on the market for \$79,000 in September of 1988 and dropped the asking price to \$59,900 this summer. The market value of the subject property was \$59,900 as of April 1, 1987.

For the above stated reasons the Board rules that the proper assessment for the 1987 tax year is \$59,000.

If the taxes have been paid, the amount paid on the value in excess of \$59,900 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

September 12, 1989

BOARD OF TAX AND LAND APPEALS

(s) Anne S. Richmond, Chairman

(s) George Twigg, III

(s) Peter J. Donahue

(s) Paul B. Franklin

I certify that copies of the written Decision have been mailed this date, postage prepaid, to Ronald W. Nelson, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Sugar Hill.

Date: September 12, 1989

(s) Michele E. LeBrun, Clerk

Ronald W. Nelson
v.
Town of Sugar Hill

Docket No. 4069-87

ORDER ON REQUEST FOR REHEARING

On October 2, 1989, the Board received a request from the Town for a rehearing of the above captioned case for the following reasons:

- "1) The Department of Revenue Administration, our agent, was not informed by your Board of the change to an earlier time of the hearing, therefore the Town of Sugar Hill was not represented.
- 2) There is additional information that could affect the decision, as DRA has information involving the true value of the property during this period.

On October 10, 1989, the Board received an objection to the Town's request for a rehearing which stated in part. . . "I oppose the Town of Sugar Hill's request for another hearing on the referenced dockett. (sic) As the DRA is the agent of the town, it seems to me that it should be the responsibility of the town to notify the DRA of the hearing. . . .Another hearing would be a hardship to me. . . .another hearing means I will lose another day of work."

The Board finds that on July 10, 1989, a notice of the rescheduled hearing date and time was properly sent to the Taxpayer with a copy to the Town. This notice fulfills the statutory requirements of RSA 76:16-a II which reads in part, . . . "the board of tax and land appeals shall, not less than 30 days prior to the date of hearing upon such application, give notice of the time and place of such hearing to the applicant and to the town or city in writing."

The Board rules it is the responsibility of both parties to notify any of their respective agents, representatives or witnesses of the hearing date and time. The Department of Revenue Administration in this case acted as an agent

Ronald W. Nelson v. Town of Sugar Hill

for the selectmen (as private reappraisal firms often do) in conducting a revaluation in the Town of Sugar Hill.

While it is unfortunate that due to miscommunication or misunderstanding either party is not represented, the Board notes that any interested party or agent can file an appearance with the Board so as to be directly notified of any schedule changes.

The Board therefore rules that the Request for Rehearing be denied.
SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esq., Chairman

George Twigg, III, Member

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

Paul B. Franklin, Member

Date:

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Ronald W. Nelson, taxpayer; and the Chairman, Selectmen of Sugar Hill.

Michele E. LeBrun, Clerk

Date:

0009