

**Robert R. Vignola and Margaret Ann Vignola
v.
Town of Sunapee**

Docket No. 4075-87

DECISION

A hearing in this appeal was held, as scheduled, on March 22, 1989. The Taxpayers were not represented. The Town was represented by Richard H. Webb and Ralph H. Leone, Selectmen and Joyce Hill, Administrative Assistant.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$30,350 (land, \$6,250; buildings, \$24,100) placed on their real estate located on Lake Avenue for the 1987 tax year.

Neither party challenged the Department of Revenue Administration's equalization ratio of 30 percent for the 1987 tax year for the Town of Sunapee.

Based on that ratio, the Taxpayers assessment equates to a market value of \$101,167.

The Taxpayer argued in a letter sent to the Board, that their house was assessed by \$10.53 more per square foot than two nearby houses.

The Taxpayers submitted the following comparison:

- (A) Home owned by Mr. and Mrs. R. Vignola (my home) has 1,248 sq. ft.
1,248 divided by \$44,666 = \$35.79 per sq. ft.
- (B) Home owned by Mr. and Mrs. Bernier has 1,924 sq. ft.
1,924 divided by \$48,600 = \$25.26 per sq. ft.
- (C) Home owned by Mr. and Mrs. Brophy has 1344 sq. ft.
1,344 divided by \$27,000 = \$20.09 per sq. ft.

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The Town stated that a different appraisal manual had been used in appraising the Vignola property than had been used in appraising the Bernier & Brophy properties. The Bernier and Brophy properties were appraised using the 1976 manual - the one used during the last revaluation in 1976. The Vignola property was last appraised using a manual trended to 1984 and then equalized back to the 1976 base year by a 54 percent factor.

In regard to the Taxpayer's 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. 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

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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 that the use of two different replacement cost manuals does not necessarily result in the property being inequitably assessed, as long as proper adjustments are made to the last revaluation date.

The Board finds that the 1984 equalization factor of 54 percent was properly applied to the Taxpayer's property resulting in the following correct comparison of square feet costs:

<u>Owner</u>	<u>Replacement Cost</u>	<u>Square feet</u>	<u>Cost/Square feet</u>
Vignola	(55833 x .54) \$30,150	1248	\$24.16
Bernier	\$48,000	1924	\$24.95
Brophy	\$27,410	1344	\$20.39

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 Taxpayer's just share of the common tax burden. The ruling is therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(Ms. Richmond did not sit.)

Anne S. Richmond, Esquire,

Chairman

George Twigg, III, Member
Acting Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date:

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert R. & Margaret Ann Vignola, taxpayers; and the Chairman, Selectmen of Sunapee.

Michele E. LeBrun, Clerk

Date:

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