

Arthur Nason
v.
Town of Effingham

Docket No. 4171-88

DECISION

A hearing in this appeal was held, as scheduled, on March 27, 1990. The Taxpayer represented himself. The Town was represented by Robert G. Camp, Appraiser.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$209,050 (land, \$113,800; buildings, \$95,250) for parcel identified as Map 17, Lot 10 and \$44,200 (land only) for the parcel identified as Map 17, Lot 10-2. Map 17, Lot 10 consists of 123 acres with a dwelling and multiple outbuildings located on Rte. 153. Map 17, Lot 10-2 consists of 86 acres on Rte. 153.

Neither party challenged the Department of Revenue Administration's equalization ratio of 65% for the 1988 tax year. Based on that ratio the Taxpayer's assessments indicate a market value of \$321,615 for Lot 10 and \$68,000 for Lot 10-2.

The Taxpayer stated that in the fall of 1987 the property was surveyed with the intention of selling a separate lot of 86 acres. Mr. Nason questioned why his total 1987 assessment as unsubdivided of \$212,000 was increased to the 1988 total assessment of \$253,250 after it was subdivided but not sold. Mr. Nason further stated that in the original assessment 10 acres had been categorized as wetland, but that when the land was assessed separately for 1988 none of the land was categorized as wetland.

Mr. Camp testified that one reason for the increased assessment was that the 1987 assessment was based on a total of only 156 acres as noted on the Tax Map. He stated that when the land was surveyed in the fall of 1987 the total

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acreage was determined to be 209 acres (86 acres for Map 17, Lot 10-2 and 123 acres for Map 17, Lot 10).

Further on Lot 10-2, Mr. Camp recommended that the undeveloped adjustment on the frontage be corrected from a x .90 factor to a x .80 factor to recognize that all of the frontage was undeveloped. Also, he recommended that the frontage be corrected to approximately 1500 as reflected on survey dated October 1987, submitted as Taxpayers Exhibit-2.

On Lot 10, Mr. Camp recommended that the 2830 feet of frontage that included the buildings have a topography adjustment of x .65, an undeveloped and a x .90 factor for most of it having no electrical service along Rt. 153. Further, he recommended that the 1700 feet of frontage that was undeveloped have a corrected undeveloped factor of x .80. He also recommended categorizing 10 acres of the poor rear land as wetland.

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.

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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).

The Board finds as follows:

Map 17, Lot 10-2:

The best evidence as to the dimension of this parcel is the survey dated October 1987 (Taxpayer Exhibit 2) which indicated a total acreage of 86.143 and 1499.9 feet of frontage on Rte. 153.

The Towns recommended corrections are reasonable. Thus the correct assessment is calculated as follows:

Frontage:

$$1499.9 \times \$75(\text{unit price}) \times .65(\text{topo}) \times .36(\text{excess frt.}) \times .80 = \$21,050$$

Rear land:

Fair	50 x \$1,200 x .30	=	\$18,000
Poor	29.253 x \$1,200 x .15	=	<u>\$ 5,250</u>
	Total		\$44,300

Map 17, Lot 10:

The best evidence as to the dimensions of this parcel is a survey dated September 1987, signed by the Effingham Planning Board, (Taxpayer Exhibit 1) which indicated a total of 123 acres with 2973 feet on the northwest side of Rte. 153 and 1600 feet on the south west side of Rte. 153. However, the Board's appraiser in his report notes that the "pit" noted on the survey is owned by the Town and accounts for approximately 100 feet of the 1600 feet indicated on the south west side of Rte. 153. As also noted by the Board's appraiser, the depth of the frontage on the northwest side is calculated at 200 feet thereby further reducing the figured frontage on the south west side to

1300 feet.

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The balance of the Towns recommended corrections are reasonable.

Thus the correct assessment is calculated as follows:

Frontage:

2973 x \$75 x .65 x .36 x .90 x .90 =
\$42,250
(unit price) (topo) (excess frt) (undev factor) (elec adj)

1300 x \$75 x .65 x .36 x .80 =
\$18,250
(unit price) (topo) (excess frt) (undev factor)

Rear land:

Fair	63.38 acres	x	\$1,200	x	.30	=	\$22,800
Poor	30 acres	x	\$1,200	x	.15	=	\$ 5,400
Wet	10 acres	x	\$1,200	x	.05	=	\$ 600
			Well & Septic			=	<u>\$ 3,500</u>
			Land Total			=	\$92,800
			Buildings			=	<u>\$95,250</u>
			Total			=	\$188,050

For the above stated reasons, the Board rules the proper assessment for the 1988 tax year is \$232,350 (Map 17, Lot 10-2, \$44,300 and Map 17, Lot 10, \$188,050).

If the taxes have been paid, the amount paid on the value in excess of \$232,350 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, Esq., Chairman

George Twigg, III, Member

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

Paul B. Franklin, Member

Date: April 5, 1990

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I certify that copies of the within Decision have this date been mailed, postage prepaid, to Arthur Nason, taxpayer; and Chairman, Selectmen of Effingham.

Michele E. LeBrun, Clerk

Date: April 5, 1990

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