

Raymond Laliberte and Denis P. Laliberte

v.

Town of Raymond

Docket No. 4173-88

DECISION

A hearing in this appeal was held, as scheduled, on November 15, 1989. The Taxpayers were represented by Denis Laliberte, one of them. The Town was represented by Andrew Blais, Appraiser.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$76,750 (land, \$9,050; buildings, \$67,700) placed on their real estate, located Orchard Street for the 1988 tax year. The property consists of a three family dwelling on .07 acre and is identified as Map 22, Lot 7.

Neither party challenged the Department of Revenue Administration's equalization ratio of 58% for the 1988 tax year for the Town of Raymond. Based on that ratio the Taxpayer's assessment equates to a market value of \$132,328.

Mr. Laliberte argued that the equalized assessment indicated a market value in excess of the actual market value for the property. He testified that they had purchased the property in a private sale in February of 1987, for \$92,000 with a faulty septic system. Mr. Laliberte stated that he is in the real estate business and has had the property for sale since it was purchased.

The asking price was based on an appraisal done in February of 1988, estimating the value at \$108,000. Mr. Laliberte testified that two offers of \$100,000 had been received in 1988, but not accepted.

Mr. Blais stated that the property was comparably assessed with similar properties in the neighborhood. He further stated that the assessment was within an acceptable 10% range of the market value as indicated by the equalized assessment.

Raymond Laliberte and Denis P. Laliberte v. Town of Raymond

The Board's appraiser, in his valuation of the property, made an adjustment to the physical and functional depreciation of the building for its age and condition and recommended an assessment of \$64,450.

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. 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).

The Board finds as follows:

Raymond Laliberte and Denis P. Laliberte v. Town of Raymond

The 1988 ratio for the Town of Raymond was 58%. Based on the Taxpayer's testimony and appraisal and the Board's appraiser's report, the property suffers from substantial physical and functional depreciation due to its age, rental use and deferred maintenance.

As the Board's appraiser's recommended assessment recognizes the depreciated condition of the property and as it indicates a market value (\$111,121) very similar to evidence submitted by the Taxpayer, the Board rules that the weight of the evidence indicates the correct assessment to be \$64,450 (land, \$9,050; building, \$55,400).

If the taxes have been paid, the amount paid on the value in excess of \$64,450 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: November 29, 1989

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Raymond & Denis P. Laliberte, taxpayers; and the Chairman, Selectmen of Raymond.

Michele E. LeBrun, Clerk

Date: November 29, 1989

0009