

Charles Caron and Sherrea Caron

v.

Town of Goffstown

Docket No. 4222-88

DECISION

A hearing in this appeal was held, as scheduled, on November 3, 1989. The Taxpayers were represented by Charles Caron, one of them. The Town was represented by David Bolton, Appraiser for M.M.C, Inc.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$96,600 (land, \$47,700; buildings, \$48,900) placed on their real estate, located off New Boston Road for the 1988 tax year. The property consists of a dwelling on 36,155 square feet of land.

Neither party challenged the Department of Revenue Administration's equalization ratio of 100% for the 1988 tax year for the Town of Goffstown.

Mr. Caron testified that when they purchased the property in December, 1987, for \$94,900, the low taxes represented to them as \$525 was one of the important reasons for purchasing the property. He also testified that while they had looked at other property for several months, they "jumped at" this property when they saw it advertised in the newspaper, because they were under pressure to relocate to a larger home with the imminent arrival of their first child.

Mr. Caron testified that he was overassessed as the lot had no road frontage (only a right-of-way access), the land was very wet and steep limiting its utility, the house had rotted sills, sagging floors and other structural problems, and portions of the lot had been used as a dump by previous owners.

Mr. Caron stated that knowing what he did now of the property and if not under any pressure to purchase, he felt the property was worth approximately \$85,000 in April, 1988.

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Mr. Bolton stated that in his opinion the lot had adequate access and had similar value as a lot with road frontage. He submitted two comparable properties in support of the consistency of appraisal practices.

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 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 rules that absolute increases in tax bills or increases from past assessments are not evidence that a taxpayers properties disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

The Board rules that for a sale to be an indicator of market value both parties must be fully knowledgeable of the property and neither under any duress to sell or purchase. The following definition embodies both those prerequisites:

"The highest price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus." Real Estate Appraisal Terminology, 1975, p.137.

The Board finds based on the evidence and testimony that the house had been renovated cosmetically just prior to the purchase by the Taxpayer and that some structural components were still in need of repair. The Board also finds that the lot has only a poorly defined 10 foot right-of-way accessing it and that the land has some drainage and slope features that limit its utility. The Board finds that while the Taxpayers had looked at real estate for several months, they were under some pressure to purchase as at least one previous deal had fallen through and their first child was about to be born.

For the above stated reasons, the Board rules that the sale for \$94,900 fell short of being an arms length transaction and being representative of market value. The Board rules that an additional 5% physical depreciation should be applied to the house to arrive at a new building value of \$46,000. Further, to reflect the access and topography problems with the lot, the Board rules the condition factor should be reduced from 100% to 85% resulting in a correct land value of \$40,550.

Therefore the Board rules the proper assessment for the 1988 tax year is: \$86,550.

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If the taxes have been paid, the amount paid on the value in excess of \$86,550 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

(Ms. Richmond did not sit.)

Anne S. Richmond, Esq., Chairman

George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member
Acting Chairman

Date: November 17, 1989

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Charles R. & Sherrea L. Caron, taxpayers; and the Chairman, Selectmen of Goffstown.

Michele E. LeBrun, Clerk

Date: November 17, 1989

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