

John L. Sheridan and Helen L. Sheridan

v.

Town of Loudon

Docket No. 4231-88

DECISION

A hearing in this appeal was held, as scheduled, on October 17, 1989. The Taxpayers were represented by Mel A. Hollidge and by themselves. The Town was represented by Michael LaBonte and Raymond Cummings, Selectmen.

The Taxpayers' appeal, pursuant to RSA 76:16-a, the assessment of \$67,500 (land, \$21,000; building, \$46,500) placed on their real estate, located on Lovering Ave. for the 1988 tax year. The property is identified as Map 49, Lot 82 and consists of a one acre lot with a dwelling.

Neither party challenged the Department of Revenue Administration's equalization ratio of 71% for the 1988 tax year for the Town of Loudon. Based on that ratio the Taxpayers' assessment equates to a market value of \$95,070.

Mr. Hollidge stated that he is a realtor and was knowledgeable of the Sheridan's property and their attempts to sell it. He testified that the property was listed for six months in 1987 with an asking price of \$89,000 but there were no offers. He further testified that the property was again listed in March of 1989 for four months for \$98,500, but again there were no offers. Mr. Hollidge stated that in his opinion the market value of the property in 1988 was approximately \$90,000. Mr. Sheridan, upon questioning, testified that the lowest offer he would have entertained would have been \$70,000 to \$75,000.

Mr. Hollidge argued that the house should be appraised for less than the stick built homes in the area as it was a double-wide manufactured house on a steel frame, with only a 12 x 18 basement area, thinner walls than stick built houses, all paneled interior and crank out windows.

John L. Sheridan and Helen L. Sheridan v. Town of Loudon

The Town argued that the house was more than a mobile home as it had a full pitch roof, texture III siding and a concrete foundation with an oil-fired hot air furnace and 1000 gallon tank in the basement area. The Town testified that it was assessed similar to modular homes in the neighborhood.

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).

John L. Sheridan and Helen L. Sheridan v. Town of Loudon

The Board finds that the dwelling is a 24' x 48' double wide manufactured house, with texture III siding, a pitch roof, a 12' x 18' concrete basement, paneled interior, has less than 2 x 4 studs and has crank out windows similar to mobile homes. The Board finds that the Town was revalued in 1986 during which was used the 1981 N.H. Property Appraisal Manual and a 1.25 local multiplier on building costs. The Board finds that the Town assessed the dwelling as a residential class 3 structure as described in that manual.

The Board finds that the building components are below average grade and that the dwelling should be graded and assessed as a class 2 1/2 residential structure.

Thus, the Board rules that the proper assessment is as follows:

<u>Dwelling (class 2 1/2):</u>			
Replacement value	32,050 - 5% (phys.dep.)	=	\$30,450
<u>Shed:</u>		=	<u>648</u>
	Sub Total		\$31,098
<u>Total Building Value:</u>	Local Multiplier x 1.25	=	\$38,850
Land Value		=	<u>21,000</u>
Total Value			\$59,850

If taxes have been paid, the amount paid on the value in excess of \$59,850 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

(Mr. Twigg did not sit.)
George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: October 24, 1989

John L. Sheridan and Helen L. Sheridan v. Town of Loudon

I certify that copies of the within Decision have been mailed this date, postage prepaid, to John L. & Helen L. Sheridan, taxpayers; and the Chairman, Selectmen of Loudon.

Michele E. LeBrun, Clerk

Date: October 24, 1989

0009