

Robert L. Doyle and Ruth M. Doyle  
v.

Town of Wolfeboro

Docket No. 4314-88

DECISION

A hearing in this appeal was held, as scheduled, on October 25, 1989.

The Taxpayers represented themselves. The Town was represented by Chester L. Spinney, Jr., Town Manager.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$45,920 (building only) placed on their real estate located at 31 Birch Hill Estates (Map 9, Block 2, Lot 15-31) for the 1988 tax year. The subject property is a manufactured house 28 feet by 52 feet and a 22-foot by 22-foot garage.

The Taxpayers argued they were overassessed based on the property being manufactured housing on leased land, with no basement, no attic, and no foundation. The Taxpayers stated they paid \$80,343 for the subject property in September of 1987.

The Town's position was the Taxpayers were assessed at close to the same ratio to market value as other buildings in the Town. The Town stated two sales in the park indicated ratios of 54 percent and 55 percent. The Town stated land only was assessed at 11 percent of market value and improved

challenge the overall ratio of 32 percent established by the Department of Revenue Administration. The Town stated doublewides were all assessed at \$27.88 per square foot while an equivalent stick house was assessed at \$36.14 per square foot.

The Taxpayers' 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). (emphasis added)

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. The equalization ratio for the Town for the 1988 tax year was 32 percent. The market value of the subject property was \$78,950 as determined by the Board's review appraiser whose figure was based on the cost approach adjusted by a market factor. The market factor of 1.54 was based on four sales of doublewides within the park. His figure is supported by the actual purchase price of the subject property.

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is  $\$78,950 \times .32$ , or \$25,260.

If the taxes have been paid, the amount paid on the value in excess of \$25,260 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, Chairman

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Robert L. and Ruth M. Doyle, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Wolfeboro.

Date:

Michele E. LeBrun, Clerk

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