

Alberta Atwater
v.
Town of Wolfeboro
Docket No. 4317-88

DECISION

A hearing in this appeal was held, as scheduled, on October 26, 1989. The Taxpayer represented herself. The Town was represented by Chester L. Spinney, Jr., Town Manager.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$30,600 (building only) placed on her real estate located at 4 Bayberry Lane (Map 9, Block 2, Lot 15-7) for the 1988 tax year. The subject property is a manufactured house 14 feet by 72 feet with a screened-in porch and an 8-foot by 12-foot shed.

The Taxpayer argued she was overassessed because the wrong square-foot values were used for the dwelling and the porch. The Taxpayer contended the proper assessment was \$22,950 using her square-foot valuations. She contended the proper assessment was \$22,274 based on the park manager's estimate of replacement cost of \$58,615 in the fall of 1988 and based on an equalization ratio of 38 percent. The Taxpayer stated the assessment card listed the wrong number of bathrooms. She noted inconsistent square-foot values among her neighbors. The Taxpayer contended she should be given physical depreciation

of 10 percent since her home was 3 years old. The Taxpayer stated she paid \$55,126 for the subject property in December of 1986.

The Town's position was the Taxpayer was assessed at close to the same ratio to market value as were other buildings in Birch Hill Estates. The Town stated the Birch Hill Estates ratio was 52 percent to 54 percent and was based on two sales. The Town stated the Taxpayer was assessed at 52 percent of the park manager's replacement costs. The Town did not challenge the overall ratio of 32 percent established by the Department of Revenue Administration, but felt it should not be applied to the case at bar.

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, 7 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. The equalization ratio for the Town for the 1988 tax year was 32 percent. The market value of the subject property was \$54,750 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 1.70 was based on four sales of singlewide mobile homes within the park. His figure is supported by the actual purchase price of the subject property and by the park manager's replacement-cost figure of \$58,615 depreciated by 7 percent for age.

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is \$54,750 x .32, or \$17,520.

If the taxes have been paid, the amount paid on the value in excess of \$17,520 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

December 27, 1989

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 Alberta Atwater, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Wolfeboro.

Date: December 27, 1989

Michele E. LeBrun, Clerk

