

Eugene P. Normand and Claire L. Normand

v.

Town of Goffstown

Docket No. 4425-88

DECISION

A hearing in this appeal was held, as scheduled, on October 31, 1989. The Taxpayers were represented by Claire L. Normand, one of them. The Town was represented by David W. Bolton, Appraiser for M.M.C., Inc.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$263,100 (land, \$98,200; building, \$164,900) placed on their real estate located on the corner of Normand Road and Rainbow Drive for the 1988 tax year. The property consists of a dwelling with a garage on a 4.37 acre lot.

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

Mrs. Normand argued that the land was overassessed by approximately \$30,000 when compared to nearby comparable lots. She testified that the undeveloped portion of the lot on Normand Road was sloping and wet and questioned whether it could practically be subdivided.

Mrs. Normand testified that she and her husband, who had been a building contractor, had built the home in 1987 and had estimated the total value of the property including the land and their own labor for 1987 income tax purposes at \$216,000 (of which she attributed \$180,000 for the construction value alone). She stated that she is also a realtor and estimates the market value of the property was \$230,000 to \$240,000 as of April 1, 1988. She also testified that they owned a comparably situated lot across Rainbow Lane which was assessed for \$56,000 but could have been worth as much as \$70,000 on April 1, 1988. She stated that this lot had similar views but could be less costly to develop because of better topography.

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Mrs. Normand did not contest the building portion of the assessment noting that the house did contain good features and good quality workmanship.

Mr. Bolton argued that the house contained many good quality appointments and extra features such as duplicate furnaces, tile jacuzzi room, hardwood wainscoting, marble flooring, etc. He submitted a new replacement cost estimate higher than the replacement cost in the assessment and argued that the assessed value on the building was too low and the value on the land was too high, but that their total was a proper assessment.

Mr. Bolton argued that the comparable properties submitted by the Taxpayer were all of lesser quality construction and smaller, thus requiring substantial adjustments when comparing with the Taxpayers' property.

Upon questioning, Mr. Bolton stated the property contained many super adequacies, and while not all the replacement cost could probably be recaptured in the market, felt the property would sell for more than other nearby houses that appeared similar, but were of lesser quality.

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.

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"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 that the house includes some over built features that are questionable whether their value could entirely be recaptured in the market on April 1, 1988. Further, the Board finds that the replacement cost in the assessment was slightly understated as evidenced by the Town's revised replacement cost and by the Taxpayers' 1987 estimate of construction value. The Board finds this lower replacement cost adequately accounts for the superadequate features that the higher replacement cost includes but would not be recognized in the market. The Board also finds the 8% reduction in the replacement cost properly accounts for the unfinished features of the building on April 1, 1988. Therefore, the Board rules that the proper assessment on the building on April 1, 1988, is \$164,900.

As to the land, the Board finds the lot contains 4.37 acres and, in accordance with the local zoning minimum lot size dimensions, could legally be subdivided. However, based on the testimony of both the Taxpayer and the Town, the Board finds that the slope and drainage difficulties of the land on Normand Road that could be subdivided precludes the practicality of doing so. Consequently, the Board finds that the excess frontage does not contribute as much in value to the property as that land assessment calculation would indicate. The Board therefore rules that the frontage calculation should be

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adjusted by a 50% factor (rather than the 10% factor) to arrive at a correct total land value of \$82,185.

For the above stated reasons, the Board rules that the proper assessment for the 1988 tax year is:

Land	\$82,185
Building	<u>\$164,900</u>
Total	\$247,085

If the taxes have been paid, the amount paid on the value in excess of \$247,085 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: November 3, 1989

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Eugene P. & Claire L. Normand, taxpayers; and Chairman, Selectmen of Goffstown.

Michele E. LeBrun, Clerk

Date: November 3, 1989

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