

William Green, Jr.

v.

Town of New London

Docket No. 4464-88

DECISION

A hearing in this appeal was held, as scheduled, on May 18, 1990. The Taxpayer was represented by his mother, Anna Green. The Town was represented by James W. Moreland and Peter Bianchi, Selectmen, Frederick Welch, Town Administrator, April Whittaker, Selectmen's Secretary, and David Bolton, appraiser for M.M.C., Inc.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$20,700 (land only) placed on his real estate located off Interstate 89, for the 1988 tax year. The property consists of 6.9 acres of unimproved land.

Neither party challenged the Department of Revenue Administration's equalization ratio of 98 percent for the 1988 tax year for the Town of New London.

Mrs. Green stated that the land was landlocked with the construction of Interstate 89 and that it has no legal access. She further testified that while the parcel abutted a tract she owned which did have access, she has never granted any legal access to her son's parcel.

Mr. Bolton testified that the parcel had been discounted an additional 20 percent for being landlocked.

Mr. Welch stated that it appeared as if a logging road originating on Mrs. Green's land looped through the Taxpayer's parcel.

The Board finds 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).

The Board finds that the Taxpayer's parcel conveniently abuts his mother's tract, and in doing so provides him some access to the land that perhaps an unrelated owner might not have. However, no written or legal access has ever been granted to the Taxpayer's lot and thus the market value of the property, and indeed the marketability of the land, is substantially effected.

Consequently, the Board rules that the Town's value should be adjusted by an additional 30 percent to result in a correct value of \$10,350 for the 1988 tax year.

If the taxes have been paid, the amount paid on the value in excess of \$10,350 is to be refunded with interest at six percent per annum from date of payment to date of refund.

June 6, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III

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Peter J. Donahue

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Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to William Green, Jr., the Taxpayer, to the Chairman, Board of Selectmen, Town of New London, and to David W. Bolton, M.M.C., Inc.

June 6, 1990

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Michele E. LeBrun, Clerk