

James N. Morin and Beverly A. Morin
v.
Town of Lancaster

Docket No. 4529-88

DECISION

A hearing in this appeal was held, as scheduled, on June 15, 1990. The Taxpayers represented themselves. The Town was represented by Robert Camp, appraiser for the Department of Revenue Administration.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$96,150 (land, \$20,950; buildings, \$75,200) placed on their real estate, located at 17 Mechanic Street, for the 1988 tax year. The property consists of a .73-acre lot with a dwelling and accessory buildings.

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

The Taxpayers argued they were overassessed due to the lower quality materials and poorer condition of the house than as was appraised by the Town.

They also submitted some photographs of the neighborhood properties to show the below-average quality and condition of the houses in the area.

Mr. Camp recommended an adjustment to the land valuation to recognize the wet rear portion of the lot and an adjustment to the garage for no overhead doors or concrete floor, resulting in a recommended assessment of

\$93,850. Mr. Camp testified that the grade 4 classification of the house

was appropriate given the fact that the 1988 New Hampshire State Appraisal Manual used in Lancaster did not contain replacement cost schedules for half grades.

The Board finds as follows.

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).

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).

Based on the testimony and photographic evidence before it, the Board rules that the dwelling's materials and workmanship are more similar to a grade 3 cost schedule than a grade 4. The Board further finds that the adjustments recommended by the Town for the land and garage are reasonable and supported by the evidence.

Therefore the Board finds the correct assessment should be calculated as follows:

Building Value:	
Dwelling	\$53,950
Attached shed	650
Attached shed	3,200
Attached garage	2,050
Garage	<u>2,600</u>
	\$62,450
Land value:	<u>19,800</u>
Total value	\$82,250

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is \$82,250.

If the taxes have been paid, the amount paid on the value in excess of \$82,250 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

June 27, 1990

BOARD OF TAX AND LAND APPEALS

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 James N. and Beverly A. Morin, the Taxpayers, to the Chairman, Board of Selectmen, Town of Lancaster, and to Richard Young, DRA.

June 27, 1990

Michele E. LeBrun, Clerk