

**Stanley F. Waterman, Jr. and Dorothy Waterman**

**v.**

**Town of Newport**

**Docket No. 4532-88**

**DECISION**

A hearing in this appeal was held, as scheduled, on December 14, 1989. The Taxpayers were not represented. The Town was represented by George W. Hildum, Senior Appraiser, Avitar.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$52,000 (land, \$12,100; buildings, \$39,900) placed on their real estate, located on Old Ayers Road (Map 40, Lot 1253) for the 1988 tax year. The property consists of a dwelling and outbuildings on one acre of land.

Neither party challenged the Department of Revenue Administration's equalization ratio of 100% for the 1988 tax year for the Town of Newport. Based on that ratio the Taxpayers' assessment equates to a market value of \$52,000.

The Taxpayers argued that the correct figure was that found in Docket No. 3622-87 by the Board. The Taxpayers stated nothing had been done to the property and the 1988 figure was out of line with the rest of the properties.

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

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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. 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 as follows. No evidence was presented to establish a market value less than \$52,000 as of April 1, 1988. The Board's assessment for 1987 was not the 1987 market value of the property, but rather less than half that value, since property was not assessed at 100% of market value in 1987. The Taxpayers purchased the property for \$44,500 in March of 1985. The Taxpayers need to establish the subject property increased in value less than 17% from March of 1985 to April of 1988, a period of high inflation for real estate, in order to show they are entitled to an abatement. This they have not done.

The Board therefore rules the Taxpayers have failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in

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excess of the Taxpayers' just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Anne S. Richmond, Esq., Chairman

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George Twigg, III, Member

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Peter J. Donahue, Member

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(Mr. Franklin did not sit.)  
Paul B. Franklin, Member

Date: December 20, 1989

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Stanley F., Jr. & Dorothy Waterman, taxpayers; and the Chairman, Selectmen of Newport.

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Michele E. LeBrun, Clerk

Date: December 20, 1989

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