

Harold S. Wilder and Yvonne C. Wilder

v.

Town of Charlestown

Docket No. 4536-88

DECISION

A hearing in this appeal was held, as scheduled, on July 13, 1990. The Taxpayers represented themselves. The Town was not represented.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$148,850 placed on their real estate located in Crown Point Heights, for the 1988 tax year. The subject property consists of a two-story residence with a two-car attached garage, situated on approximately 3.5 acres of land.

Neither party challenged the Department of Revenue Administration's assessment-sales ratio of 95 percent for the 1988 tax year for the Town of Charlestown. Based on that ratio the Taxpayers' assessment equates to a market value of \$156,700, as of April 1, 1988.

The Taxpayers argued they were assessed higher than market value and testified they analyzed 55 sales of which 45 showed assessments less than the sale price and 10 showed sales with assessments greater than the sale price during the period January 5 through October 1, which indicated a mean of 88 percent assessment-sales ratio of the selected sales. The Taxpayers acknowledged the Department of Revenue Administration ratio had been determined at 95 percent.

The Taxpayers stated their purchase and sale agreement for the subject property was renegotiated and a \$2,500 allowance from the seller was made for the condition of the septic system which the Taxpayers determined was not in conformance with RSA 149 E as a state approved system. The Taxpayers stated that the effective market price of the subject property in August of 1988 was \$145,000.

The Taxpayers further testified the subject property had been on the market for a period of from November 1987 through August 1988 when they made their sales agreement. Mr. Wilder stated the listed price for the subject property during the period of time it was on the market was \$159,900.

Mr. Wilder testified he was a real estate sales associate with Century 21 High View Realty, which brokerage company was paid a commission as a result of the sale of the subject property to the Taxpayers. Mr. Wilder stated he received a commission as the sales agent in the transaction and that full disclosure was made to all parties. Mr. Wilder acknowledged he was paid a commission as an agent of the seller.

The Board finds the subject property was originally valued at \$151,350 for the 1988 tax year and was subsequently reduced \$2,500 to the assessed value of \$148,850. The Board finds the sale of the subject property was not an arm's-length transaction that was totally conclusive of the market value of the subject property as of April 1, 1988. The Board notes market price is what an individual pays to attain property while market value is a broader less finite measure of what is attained in the overall marketplace.

The Board rules there is no one exact or definitive market value or assessment which can be derived from a single market price transaction. The

marketplace is a morass of human subjectivity that many times defies rational analysis.

The statute makes the proceeding for the abatement of a tax a summary one, free from technical and formal obstructions. The question is, does justice require an abatement? . . . The justice to be administered is to be sufficiently exact for the practical purposes of the legislature, who did not intend to invite the parties to a struggle for costs, or a ruinous contention about trifles. The points to be considered are such as the nature of each particular case presents. They cannot be fixed by an invariable rule. Manchester Mills v. Manchester, 58 N.H. 38, 39.

Based on the testimony and evidence the Board rules the assessment of \$148,850 is a proportional estimate of the property's market value as of April 1, 1988, and results in an equitable assessment in relation to other property in the Town.

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 excess of the Taxpayers' just share of common tax burden. The ruling is, therefore,

Request for abatement denied.

SO ORDERED.

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 Harold S. and Yvonne C. Wilder, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Charlestown.

Michele E. LeBrun, Clerk