

Jerry Pacheco and Pamela Pacheco

v.

Town of Litchfield

Docket No. 4546-88

DECISION

A hearing in this appeal was held, as scheduled, on July 10, 1990. The Taxpayers were represented by Jerry Pacheco, one of them. The Town was represented by Gary Roberge, Appraiser of Avitar and by Jay L. Hodes, Esq..

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$226,200 (land, \$59,800; buildings, \$166,400) placed on their real estate, located at 16 Locke Mill Road for the 1988 tax year. The property consists of a dwelling with an attached garage on a .99 acre lot and is identified as Map 14, Lot 42, Sublot 1112.

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

Mr. Pacheco testified that they purchased the property in February of 1987 for \$207,000. He argued that the real estate market peaked the third quarter of 1987 and that overall there was very little appreciation from when they purchased the property to the assessment date of April 1, 1988. In support of his contention, he submitted an appraisal done by Stephen L. Wells, as of December of 1988, that estimated the value at \$204,900. He stated that while the difference between the assessed value and his appraisal value of \$204,900 would not change his taxes much, he wanted his assessment to be accurate.

Mr. Roberge argued that sales indicated at least a 1% per month appreciation in 1987 through April 1, 1988. He stated that it was his opinion that the real estate market showed no appreciation after the third quarter in 1988. He testified that there were seven sales in Locke Mill Estates in 1987

that were used for comparison. He argued that trending the Taxpayers sale at even .75% per month supported the April 1, 1988 assessment of \$226,200.

The Board's investigator, in his report of the property, recommended no change in value.

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.

"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 the 1988 equalization ratio as determined by the Department of Revenue Administration was 100%. The Board finds that the Town

trended for time sales of property that occurred in 1987 up to the April 1, 1988 assessment date. The Board finds based on the testimony and its experience that property in Litchfield continued to appreciate at a moderate rate through 1987. If the Town had not time trended the 1987 sales, the subsequent 1988 ratio would have been determined to be less than 100%.

Finally, the Board rules there is no one exact or definitive market value or assessment. 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 \$226,200 is a reasonable 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 the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue, Member

Paul B. Franklin, Member

Raymond J. Damour, Temporary Member

Date: August 8, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Jerry & Pamela Pacheco, taxpayers, taxpayer; and Jay L. Hodes, Esq., counsel for the Chairman, Selectmen of Litchfield.

Michele E. LeBrun, Clerk

Date: August 8, 1990

0009