

Thomas C. Jones and Deborah A. Jones  
v.  
Town of Deering

Docket No. 4632-88

DECISION

A hearing in this appeal was held, as scheduled, on May 10, 1990. The Taxpayers were represented by Douglas Hatfield, Esq. The Town was represented by Harlan A. Noyes, Town Appraiser.

The Taxpayers appeal, pursuant to RSA 76:16-a, the 1988 assessment of \$116,750 (land, \$23,450; buildings, \$93,300) placed on their real estate located at the junction of Route 149 and Old County Road. The property consists of approximately 2 acres with a dwelling and attached garage, identified as Map 11, Lot 29. The Taxpayers also own but did not appeal property identified as Map 11, Lot 363, with the assessment of \$41,500 (land, \$13,100; buildings, \$28,450) and Map 11, Lot 731B, with an assessment of \$19,600 (land only).

Neither party challenged the Department of Revenue Administration's equalization ratio of 45 percent for the 1988 tax year for the Town of Deering. Based on that ratio, the Taxpayers' assessment on Map 11, Lot 29, equates to a market value of \$259,444.

The Taxpayers argued the market value of their property was \$175,000 and that the property had been listed with realtors for four years with an asking

price in 1988 of \$179,000. They submitted the assessment cards of twelve

other properties in Deering and argued that these other properties were assessed for approximately one third of market value while the Taxpayers were assessed nearer one half of market value. The Taxpayers argued that the buildings were over graded and assessed and felt the assessment for the buildings should be \$75,000.

The Town testified that the Taxpayers' house, which had been built since the last town-wide revaluation in 1980, had been appraised using the same manual as was used at the time of the revaluation. Mr. Noyes indicated that the general quality of the interior finish warranted the grade of 4 1/2.

Mr. Noyes stated that most of the twelve properties submitted by the Taxpayers were not comparable for numerous reasons, such as age, condition, location, quality, and size of property.

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's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V (b).

Based on the evidence and the Board's experience, the Board rules that the dwelling should be graded and calculated as a class 4. Further, the garage should be appraised as an above average, attached garage with living area on the second floor, as it is questionable, due to its layout and lack of fenestration comparable to the house, that it would contribute as much in value as the Town had indicated by appraising it as an intricate part of the living area. Therefore, properly calculated, the Board rules that the building value is \$81,100, and when added to the land value of \$23,450, the equitable assessment for the 1988 tax year is \$104,550.

If the taxes have been paid, the amount paid on the value in excess of \$104,550 is to be refunded with interest at six percent per annum from date of payment to date of refund.

June 15, 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 Thomas C. and Deborah A. Jones, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Deering.

June 15, 1990

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Michele E. LeBrun, Clerk