

Wilfred Ives and Constance Ives

v.

Town of Loudon

Docket No. 4652-88

DECISION

A hearing in this appeal was held, as scheduled, on October 17, 1989. The Taxpayers represented themselves. The Town was represented by Raymond C. Cummings and Michael P. LaBonte, both selectmen.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$71,850 (land, \$21,000; buildings, \$50,850) placed on their real estate located on Wales Bridge Road (Map 11, Lot 48) for the 1988 tax year. The property consists of a log house on .61 acres of land.

Neither party challenged the Department of Revenue Administration's equalization ratio of 71 percent for the 1988 tax year for the Town of Loudon. Based on that ratio the Taxpayers' assessment equates to a market value of \$101,197.

The Taxpayers argued they were overassessed because the land assessment increased from \$9,000 to \$21,000 and the building increased from \$24,700 to \$50,850 from July 1, 1988, to December 30, 1988. They felt they were overassessed because the building was only a shell on April 1, 1988. The Taxpayers stated the building was 90 percent

complete on the date of the hearing and they invested \$90,000 plus labor

in the building.

The Town's position was the increase from July 1, 1988, to December 30, 1988, was because the first billing was based on one half the prior year's assessment. The Town stated Jeff Earls from the Department of Revenue Administration determined the subject property had a market value of \$95,000 on April 1, 1989, when the building was 90 percent complete. The Town recommended reducing the assessment to \$57,100 (land, \$21,000; buildings, \$36,100), stating the \$50,850 for the building seemed high.

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 as follows. The equalized value of the Town's recommended building assessment is \$50,845. The Taxpayers' statement they had invested \$40,000 to \$50,000 in improvements, not including the cost of labor, supports this value as does their estimate of total worth of \$125,000 when complete. The Town's equalized value is 40 percent of this figure. At the 90 percent complete stage the Taxpayers had invested \$90,000 plus all the labor. The land assessment of \$18,000 for a building lot plus \$3,000 for water and septic are in line with other assessments in the Town. No evidence of the market value of the land was presented to the Board.

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is:

Land	\$21,000
Buildings	<u>36,100</u>
Total	\$57,100

If the taxes have been paid, the amount paid on the value in excess of \$57,100 is to be refunded with interest at six percent per annum from

date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS