

Francis McGloin and Barbara L. McGloin

v.

Town of New Durham

Docket No. 4654-88

DECISION

A hearing in this appeal was held, as scheduled, on May 4, 1990. The Taxpayers represented themselves. The Town was represented by David W. Bolton, appraiser for M.M.C., Inc.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$15,500 (land only) placed on their real estate, located in the Copple Crown development, for the 1988 tax year. The property consists of a 26,210 square-foot lot on Interlaken Drive.

Neither party challenged the Department of Revenue Administration's equalization ratio of 98 percent for the 1988 tax year.

The Taxpayers testified that when they purchased the lot 22 years ago, they were promised finished roads and electricity and water to the lot. They stated that the development failed shortly after that and to date the road by their lot is unmaintained and in poor condition and water service to their lot has very low pressure. They testified that the original developer (now a realtor) indicated to them that recent sales ranged from \$200 to \$10,000 for lots in Copple Crown. He had suggested a listing for the Taxpayers' property in the \$7,000 to \$8,000 range and any offer over \$5,000 to be reasonable.

Mr. Bolton submitted three comparable lots in Copple Crown that had sold in the \$5,600 to \$10,000 range. He agreed that the lot was inappropriately assessed in relation to these sales. He recommended revising the influence factor to 090 and the condition factor to 040, thus resulting in a new value of \$7,300.

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 that the Town's recommended value of \$7,300 is supported by the testimony and evidence of both parties and better represents the parcel's market value in 1988 given the incomplete status of the development.

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is \$7,300.

If the taxes have been paid, the amount paid on the value in excess of \$7,300 is to be refunded with interest at six percent per annum from date of payment to date of refund.

May 16, 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 Francis and Barbara L. McGloin, the Taxpayers, and to the Chairman, Board of Selectmen, Town of New Durham.

May 16, 1990

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Michele E. LeBrun, Clerk

