

Leslie Hett and Letty Hett

v.

Town of Newfields

Docket No. 4730-88

DECISION

A hearing in this appeal was held, as scheduled, on August 28, 1990. The Taxpayers represented themselves. The Town was represented by William L. Tebo, Chairman, Board of Selectmen.

The Taxpayers appeal, pursuant to RSA 76:16-a, the 1988 assessment of \$137,800 (land, \$48,550; building, \$89,250) for Map 102, Lot 33; \$119,350 (land, \$31,150; building \$88,200) for Map 102, Lot 34; and \$146,950 (land, \$62,100; building, \$84,850) for Map 102, Lot 35. The property consists of three contiguous, separately described lots totalling less than an acre, with three multi-family structures (10 units total) and a garage.

Neither party challenged the Department of Revenue Administration's equalization ratio of 94 percent for the 1988 tax year for the Town of Newfields.

Mr. Hett argued the property was overassessed, given its age, condition, and rental incomes. He submitted an appraisal done by Michael Daigneault of Rockingham Appraisal Service that estimated the market value of all three parcels as of August 22, 1990, at \$270,000.

Mr. Tebo stated that he had reviewed the assessments with Mr. Hall, an appraiser doing "pickups" for the Town, and Mr. Hall had concurred the original assessments were correct.

The Board rules as follows:

The Taxpayers' 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).

While the Board does not entirely dismiss the appraisal done by Mr. Daigneault, it finds it to be less than conclusive evidence due to its effective date's being nearly 2 1/2 years after the assessment date under consideration.

The Board finds, based on photographic evidence, information on the assessment cards, and the Taxpayers' testimony, that the quality, condition, and utility of the three main structures was overstated by the Town. The Board rules that the three main dwellings should be graded a class 3 1/2 and additional depreciation given to reflect the buildings' deficiencies that the market would recognize. The Board finds these deficiencies to be such things as the cut-up layout due to apartment use of the buildings, old kitchens and baths, some old heating systems, access to the buildings and some units, and the general physical condition of the buildings.

Therefore, the Board rules the correct assessments are as follows:

Map 102, Lot 33

Buildings:

Apartment building - \$81,450 (replacement cost as 3 1/2), less 30% physical depreciation, less 30% functional depreciation	\$39,900
Garage	<u>6,400</u>
Total	\$46,300

Local multiplier x 1.5

Building value \$69,450

Land: 48,550

If the taxes have been paid, the amount paid on the total value in excess of \$346,450 is to be refunded with interest at six percent per annum from date of payment to date of refund.

September 11, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

(Heard prior to appointment)
Ignatius MacLellen

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Leslie J., Sr., and Letty Hett, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Newfields.

September 11, 1990

Michele E. LeBrun, Clerk