

Ravena G. McIntyre

v.

City of Laconia

Docket No. 4883-88

DECISION

A hearing in this appeal was held, as scheduled, on September 7, 1990. The Taxpayer was represented by John C. McIntyre, husband, and by Camille Jacobs, Senior Appraiser of Jacob Appraisal Associates. The City was represented by Kathryn Temchack, City Assessor, and David W. Bolton, appraiser from M.M.C., Inc.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$296,700 (land, \$214,700; buildings, \$82,000) placed on her real estate, located on Dennis Avenue and Lake Winnisquam, for the 1988 tax year. The property consists of a dwelling located on a less-than-an-acre lot on Lake Winnisquam.

Neither party challenged the Department of Revenue Administration's equalization ratio of 100 percent for the 1988 tax year for the City of Laconia.

Ms. Jacobs submitted an appraisal that estimated the market value of the Taxpayer's property at \$278,000 for April, 1988. She argued that while there were substantial adjustments to her three comparables, it was common for waterfront sales to have more adjustments than non-waterfront sales due to the

increased variables the market considers on waterfront property and due to

the smaller number of sales from which to select comparables. She argued that other features that detracted from the property were the seasonal drop in the lake level that strands the boat house, the 40-year-old house being of an inferior style and quality of material than is accustomed in today's market, and the water supply being from the lake with old wells not being used due to contamination.

The City submitted six sales of comparable properties on Lake Winnisquam that sold in 1986, 1987, and 1988 in a range of \$170,000 to \$259,000.

Mr. Bolton stated that there was still 1 percent appreciation per month of real estate taking place through the end of 1987.

Mr. Bolton argued that the Taxpayer's appraisal was not entirely credible due to the many adjustments to the comparables and that boat houses contribute more in value than the appraiser had made an adjustment for due to it's grandfathering value now that new boat houses cannot be built.

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 quality and condition of the dwelling and the water supply from the lake were properly accounted for in the Town's assessment. The Board rules that the market for seasonal property such as the Taxpayer's does not generally suffer from these conditions to the extent that year-round or primary residences do.

The Board finds that appraisers could argue at length with no certain resolution. As to the positive or negative effects on market value of such things as a varying water level of a lake or whether frontage is measured in a straight line or by following the curvature of the frontage. The Board rules there is no one exact, definitive, or perfect market value or assessment for any property. The marketplace is a morass of human subjectivity that many times defies precise 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 purpose 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.

Rather, there is an appropriate range of value that can be used to measure a taxpayer's reasonable share of the common tax burden.

The Board rules that the Taxpayer has not met her burden of proof of showing that the City's assessment falls out of this acceptable range of value and thus has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore:

Request for abatement denied.

September 25, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the enclosed Decision have been mailed this date, postage prepaid, to Ravena G. McIntyre, the Taxpayer, to the Chairman, Board of Assessors, City of Laconia, and to David W. Bolton, M.M.C.

Michele E. LeBrun, Clerk

September 25, 1990