

Albert H. Burt  
v.  
City of Manchester  
Docket No. 5022-88

DECISION

A hearing in this appeal was held, as scheduled, on August 24, 1990.

The Taxpayer was represented by Gary M. Stern, Agent, and by himself. The City was represented by Paul W. Porter, Jr., and William W. Lynch, assessors for the City of Manchester.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$27,600 (land, \$1,500; building, \$26,100) placed on his real estate located on Victoria Street, for the 1988 tax year. The property consists of a condominium identified as Unit A-3, at 3 Park Place.

Neither party challenged the Department of Revenue Administration's equalization ratio of 17 percent for the 1988 tax year for the City of Manchester. Based on that ratio the Taxpayer's assessment equates to a market value of \$162,350.

Mr. Stern testified that Mr. Burt purchased the condominium in September 1987 for \$119,000. Mr. Stern submitted analyses of sales for six condominium complexes that indicated assessment-to-

sales ratios ranging from 13 to 23 percent. He argued that the Park Place condominiums, with an indicated ratio from sales in 1987 of 22 percent and in 1988 of 23 percent,

were disproportionately assessed in comparison with other condominiums and property in the City.

The City argued that the two ratios of 15 percent and 13 percent indicated by sales of units at the Chase Condominiums and 300 North River Road Condominiums, respectively, were not accurate. Mr. Porter stated that the assessments reflected a discount for unfinished features of each project compared to completed sales prices. He stated that subsequently the assessments have been revised.

Mr. Porter argued that Mr. Burt's purchase price of \$119,000 was a "good deal" as the seller had also purchased a condominium at the Chase Condominiums for approximately \$400,000 and financially needed to sell the unit at Ark Place.

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.

It is well established that the taxpayer has the burden of demonstrating that he is disproportionately assessed. Lexington Realty v. City of Concord,

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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 this case typifies the difficulty of maintaining tax equity, especially with new projects that come on the tax roles between revaluations. It is this difficulty that the City-wide revaluation ordered by this Board for 1991 should rectify, at least temporarily and more permanently if the City creates the ability to categorize or stratify various types of property so that adjustments can be made periodically (short of another City-wide reassessment) as the market indicates.

The Board rules that the nine sales of other condominiums in Park Place in 1987 and 1988 are the best evidence of the 1988 market value of the Taxpayer's property of approximately \$127,000.

"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).

The Board therefore rules that the proper assessment for the

1988 tax year is \$21,600 ( $\$127,000 \times .17$ ).

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If the taxes have been paid, the amount paid on the value in excess of \$21,600 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  
September 11, 1990

George Twigg, III,

Chairman

Peter J. Donahue

Paul B. Franklin

appointment)

(Heard prior to

Ignatius MacLellan

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Albert H. Burt, the Taxpayer, and to the Chairman, Board of Assessors, City of Manchester.

September 11, 1990

Michele E. LeBrun, Clerk

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