

Alan B. Kent, Jr., and Patricia L. Kent
v.
Town of Exeter

Docket No. 5174-88

DECISION

A hearing in this appeal was held, as scheduled, on June 14, 1990. The Taxpayers were not represented. The Town was represented by John DeVittori, Assessor.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$175,900 (land, \$51,500; buildings, \$124,400) placed on their real estate, located at 32 Oakland Road, for the 1988 tax year. The property consists of a log home with a garage on a 1.37-acre lot.

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

In correspondence to the Board, the Taxpayers argued that the "land and buildings are inequitably assessed in relation to comparable properties", and that the "assessed value exceeds market value". The Taxpayers also submitted an appraisal by Ralph J. Cutting as of February 23, 1989, that estimated the market value at \$166,000.

Mr. DeVittori submitted a comparison grid of three other nearby properties to show consistency of assessing practice. He stated that he

agreed with Mr. Cutting's appraisal, inasmuch as Mr. Cutting stated that the

value would be in a range of \$160,500 to \$175,000 and that Mr. Cutting's final estimate of \$166,000 was as of eleven months later than the assessment date of April 1, 1988.

The Board finds 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).

The Board finds that the Town's assessment of \$175,900 is a reasonable estimate of the market value of the Taxpayers' property as of April 1, 1988. The Taxpayers' appraisal eleven months later of \$166,000 in a declining market period also reinforces the Town's assessment.

The Board rules that for one point in time (in this case, April 1, 1988), there is no exact or magical assessment that is correct--only that the assessment arrived at is within a reasonable range of market value and is proportionally assessed to other property in the Town.

The Board therefore rules the Taxpayers have failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayers' just share of the common tax burden. The ruling is, therefore:

Request for abatement denied.

June 27, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Alan V., Jr., and Patricia L. Kent, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Exeter.

June 27, 1990

Michele E. LeBrun, Clerk