

Comfort Cary Richardson

v.

Town of New London

Docket No. 5201-88

DECISION

A hearing in this appeal was held, as scheduled, on May 11, 1990. The Taxpayer was represented by James C. Cleveland, Esquire. The Town was represented by R. Peter Bianchi, Selectman; Frederick Welch, Town Administrator; April Whittaker, Selectmen's Secretary; and David W. Bolton, appraiser, M.M.C., Inc..

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$123,000 (land only) placed on his real estate, located on Map 33, Lot 8 for the 1988 tax year.

The parties agreed that the equalization ratio for the Town of New London for the 1988 tax year was 100%.

The Taxpayer's representative, Atty. James Cleveland, told the Board that since current set back requirements make the subject property an irregularly shaped lot (70' frontage on water and 54' on the road) unbuildable, worth \$30 - \$40,000.

Another property owned by the Taxpayer (but not appealed) was Map 46, Lot 5: Land, \$54,100; Building, \$124,400; Total, \$178,500.

The Taxpayers total estate must be considered when determining if the Taxpayer is bearing his fair share of the Town's total tax burden.

Equity requires that the plaintiffs be relieved by an abatement of such sum as they have paid in excess of their share of the common burden. Their share is such a proportion of the whole tax as the true value of their property bears to the true value of all the taxable estate in the city. If all the other taxable estate in the city except the plaintiffs' were appraised at its

true value, the appraisal of theirs at a sum equal to the true value of the whole would assign to them their share of the common burden; and the fact that some classes of their estate were appraised too high would not entitle them to an abatement if the error were neutralized by an under-valuation of other estate. "Justice does not require the correction of errors of valuation whose joint effect is not incurious to the appellant." Edes v. Boardman, 58, N.H. 580, 588, overruling Dewey v. Stratford, 42 N.H. 282, 289. Amoskeag Mfg. Co. v. Manchester, 70 N.H. 200

The Board finds the highest and best use of the smaller parcel is as access to the lake for the improved lot. It is further noted that with a special exception a boat or bath house could be built. The Board finds the combined value of the two parcels to be at least \$301,600, as assessed.

The Board therefore rules the Taxpayer 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member

Date:

I certify that copies of the within Decision have this date been mailed, postage prepaid, to James C. Cleveland, Esq., counsel for Comfort Cary Richardson, taxpayer; Chairman, Selectmen of New London; and David W. Bolton, appraiser, M.M.C., Inc.

Michele E. LeBrun, Clerk

Date:

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