

Shirley I. Leonard
v.
Town of Charlestown

Docket No. 5214-88

DECISION

A hearing in this appeal was held, as scheduled, on July 13, 1990. The Taxpayer represented herself. The Town was not represented.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$44,300 (land, \$20,100; buildings, \$24,200) placed on her real estate, located off Dump Road for the 1988 tax year. The property consists of a manufactured house, a shed and a box trailer on 11.9 acres - 10.9 of which are assessed at current use values.

Mrs. Leonard argued she was overassessed due to the manufactured house being appraised at a higher square foot price than other houses and due to the homesite base price being higher on the private road on which she was located than on other property on town maintained roads. Mrs. Leonard cited differences between the assessment of her water supply, septic system and porch and the assessment of these items on other property. She testified that the shed was only 7 by 10 feet not 10 by 15 and the truck trailer was only 8 by 32 feet. She argued that while the trailer was used for storage, it could be moved at a moments notice as the air was in the tires.

Mrs. Leonard testified that the Merrill Real Estate Agency had estimated the value of her property in 1988 at approximately \$39,000.

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 Town's use of different square foot prices for different size buildings is reasonable given the fact that larger buildings are less costly to build on a per square foot basis than smaller buildings and vice versa.

While the Taxpayer showed there were differences in the assessments of the homesites, utilities and porches, she did not prove that these differences were not warranted by the market.

The Board finds that the shed is 7 by 10 feet and has a proper assessment of \$150.

The Board rules that while a tractor trailer that is used as real estate and is either affixed or so entwined with the real estate that it has for all practical purposes lost its mobility could be assessed as real property, that is not the case at bar. The Board rules tha the truck trailer, in this case, is not real property and is not taxable.

Therefore, the Board rules the proper 1988 assessment is:

Land	\$20,100
Building	<u>\$23,500</u>
Total	\$43,600

If the taxes have been paid, the amount paid on the value in excess of \$43,600 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

Peter J. Donahue, Member

Paul B. Franklin, Acting Chairman

(Concurred, unavailable for

signature.)

Raymond J. Damour, Temporary Member

Date: August 24, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Shirley I. Leonard, taxpayer; and Chairman, Selectmen of Charlestown.

Michele E. LeBrun, Clerk

Date: August 24, 1990