

Deryl C. Baker and Irene K. Baker

v.

Town of Charlestown

Docket No. 5237-88

DECISION

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

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$44,400 (land, \$22,050; buildings, \$22,250) placed on their real estate, located on Wheeler Rand Road for the 1988 tax year. The property consists of a manufactured house and garage on a 1.27 acre lot identified as Map 8, Lot 10.

Neither party challenged the Department of Revenue Administration's equalization ratio of 95% for the 1988 tax year for the Town of Charlestown. Based on that ratio the Taxpayers' assessment equates to a market value of \$46,737.

The Taxpayers argued they were overassessed due to the sagging ceilings and floors, leaking doors and windows, deteriorating kitchen cabinets, poor insulation and the resulting high heating costs and narrow width of the home. They stated that the manufactured home was a damaged second hand unit that they were gradually repairing. They testified to and submitted assessment cards of wider or larger units that were assessed for less.

Upon questioning they stated that they felt the market value in 1988 of the entire property was \$35,000 to \$40,000.

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 Board finds based on the testimony and evidence that the manufactured home has all the physical and functional deficiencies as noted by the Taxpayer.

The Board rules that the market would recognize these deficiencies and that the replacement cost of the manufactured home needs to be reduced by 35 percent physical depreciation and 30 percent functional depreciation.

For the above stated reasons the Board rules that the proper assessment for the 1988 tax year is:

Land	\$22,050
Building	<u>\$15,400</u>
Total	\$37,450

If the taxes have been paid, the amount paid on the value in excess of \$37,450 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

George Twigg, III, Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: August 24, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Deryl C. & Irene K. Baker, taxpayers; and Chairman, Selectmen of Charlestown.

Michele E. LeBrun, Clerk

Date: August 24, 1990

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