

Edwin H. Arnold and Ruth Arnold
v.
Town of Epping

Docket No. 5241-88

DECISION

A hearing in this appeal was held, as scheduled, on May 22, 1990. The Taxpayers were represented by Edwin Arnold, one of them, and by Michael Kenney, Fair Share Associates. The Town was represented by David W. Bolton, appraiser of M.M.C., Inc.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$58,000 placed on their manufactured housing unit located at 625 Vista Drive in the Pine and Pond Park. The property is a single-wide 14-foot by 66-foot manufactured home with an addition, porch, and carport.

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

The Taxpayers argued their manufactured housing unit should be assessed at \$45,000. Their estimate of value was arrived at by three methods: 1) the cost approach using a Marshall/Swift appraisal manual, 2) comparing with sales of units in manufactured home parks in Dover and Barrington, New Hampshire, and 3) comparing with the assessments of manufactured homes in Epping but outside Pine and Pond Park.

Further, the Taxpayers argued there was "compounded taxation." ". . . part of my rent paid to the park owner in turn is paid to the town for the taxes levied on the LAND my home occupies. Apparently, the more desirable the park, the higher that land is assessed as commercial property. That assumption is compensated by the taxes paid by the park owner, and should not effect MY taxes. If my home, as a separate entity has a specific value, as I see it, should be assessed according to its own specifications, and NOT based on the quality of the park lot. It appears that the present situation is predicated on the premise that the greater the value on the park, ...the greater the value on the home, creating an escalated and unrealistic 'compounded taxation'." (Exhibit TP-1)

The Town presented five sales of comparable manufactured housing units, all in Pine and Pond Park, from February 1987 to March 1989 with sales prices from \$47,000 to \$59,900. Mr. Bolton argued that since there had been thirteen sales of units within the Park that occurred during the sales analysis period of the revaluation, those sales best established the market value of the other units within the park.

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 statutes define land and real estate in RSA 21:21 as:

- I. The words "land," "lands" or "real estate" shall include lands, tenements, and hereditaments, and all rights thereto and interests therein.
- II. Manufactured housing as defined by RSA 674:31 shall be included in the term "real estate." (emphasis added)

Black's Law Dictionary states, with respect to the term "property,"

The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate. It extends to every species and personal

property, easements, franchises, and incorporeal hereditaments. (emphasis added)

Based on the testimony and evidence, the Board finds that the best evidence of the market value of the Taxpayer's property is the sales of similar property within the Pine and Pond Park. The Town used a combination of the cost and market approaches to assess the Taxpayers' interest in their property. In the analysis of sales of these properties, the contributory value of the manufactured home was determined by the cost approach and then subtracted from the actual sales prices. The difference was correlated from the several sales within the park to a market adjustment factor of 1.4. This difference is attributable to less tangible but nonetheless transferable property rights or interests such as situs or location with any of its associated amenities.

The Board rules that the Taxpayer is proportionally assessed for those rights and interests tangible and intangible that are particular and unique to their property alone.

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 15, 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 Edwin H. and Ruth Arnold, the Taxpayers, to the Chairman, Board of Selectmen, Town of Epping, and to David W. Bolton, M.M.C., Inc.

June 15, 1990

Michele E. LeBrun, Clerk

1002

Edwin H. Arnold and Ruth Arnold
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ORDER RE REQUEST FOR REHEARING

On July 3, 1990, the Board of Tax and Land Appeals (hereafter Board) received a request for rehearing from the Taxpayers in the above captioned

case.

The Taxpayers' bases for the request can be summarized as follows:

1) "(The Town) presented only a sampling of sales of manufactured homes located in Pine and Pond Park, and no comparison of any sales of like manufactured homes located elsewhere in the taxing district. . . .

"Taxpayers further hold that like property values and assessments throughout the entire taxing district must be allowed for comparison because the statutes do not provide for exclusions or segregation of 'segments' of the taxing district to be assessed by a different standard because of a fence, or border, or legal boundary described on a deed. The manufactured homes situated within Pine & Pond Park are as much a part of the Town's entire taxing district as if they were located on privately owned land, and should not be categorized or discriminated against."

2) "The Taxpayers maintain that the ratio between the true and assessed value of their property is greater than the ratio of other like property in

the taxing district, and that the exhibits presented by the Town failed to prove that the Taxpayers' 1988 tax levy was equitable and proportionate."

3) "The tax payers take exception to the Boards ruling that because of 'rights and interests unique to their property' a greater assessment is justified on taxpayers' property. The Taxpayers fail to see what amenities are unique to their property or available to them that are not available in either a like or similar manner throughout the town. The 'life style' within a manufactured housing park offers lighted and maintained streets, snow removal, community water, community sewer, facilities for recreation and socializing. The WHOLE TAXING DISTRICT offers these same amenities in the form of community services, churches, halls, libraries, etc. which the Taxpayers also support in addition to paying for the USE of the so-called amenities in Pine & Pond Park. Whatever amenities, imagined or real, that Taxpayers supposedly enjoy, and therefore enhance the value of their property should be, by logic, more than offset by the convenience and advantage of a public school facility from which Taxpayers as residents in and ADULT part derive no benefit for the considerable portion of the (sic) their tax contribution which supports that facility."

The Board denies the request for rehearing for the following reasons:

1) The Taxpayers do not offer to present any evidence that existed but was unavailable at the time of the original hearing. See our rules Tax 201.05(d).

2) The Taxpayers or their representatives in their request for rehearing continue not to understand that assessments should be done proportionally to market value (RSA 75:1). To determine market value,

comparisons to "like property" that has sold is one method used. The Taxpayers made comparisons of their manufactured home to the assessments of other manufactured homes on their own land in Epping and to assessments of manufactured homes in Barrington and Dover. These are not "like properties".

They may look the same and provide the same utility or function but the market may value them for more or less given their individual attributes or drawbacks. To have the assessments of similarly appearing and utilized real estate appraised the same would, while simplifying the assessor's duties, create assessments disproportionate to market value and contrary to the New Hampshire Constitution, Part 2, Article 5, and RSA 75:1 (supp).

3) The Taxpayers may rationalize that whatever benefits they obtain by their "rented life style" in the park is offset by their lack of utility of the public school system that they also support. Such a basis for assessing their home the same as those not in the park is of no avail unless they can prove that the market agrees with them. That they did not do. The Town testified that they analyzed 13 sales of manufactured homes within the park and determined, after adjustment for time, that units were selling approximately 1.4 times higher than their replacement costs. Pages could be written theorizing why that is so. However, it is enough to determine, as the Town did, the relationship from a reasonable number of sales between the replacement cost of the units and what they were selling for in the park. The selected sales submitted by the Town showed the final assessments within an

acceptable range of their selling prices, given the variance of the market place.

The Board therefore rules as follows:

Request for rehearing denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

July 18, 1990

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