

Ralph Roberts and Marcia E. Roberts
v.
Town of Epping

Docket No. 5277-88

DECISION

A hearing in this appeal was held, as scheduled, on May 22, 1990. The Taxpayers were represented by Ralph Roberts, 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 \$68,700 placed on their manufactured housing unit located at 20 Edgewood Drive in the Pine and Pond Park. The property is a double-wide manufactured home with porches.

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 \$52,000. 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 three sales of comparable manufactured housing units, all in Pine and Pond Park, from August 1987 to May 1989 with sales prices from \$51,400 to \$56,000. 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 18, 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 18, 1990

Michele E. LeBrun, Clerk