

Bear Mountain Cove, Inc.

v.

Town of Bristol

Docket No. 5290-88

DECISION

A hearing in this appeal was held, as scheduled, on April 11, 1990. The Taxpayer was represented by Robert S. Duchesne. The Town was represented by John W. McSorley, Department of Revenue Administration appraiser.

The Taxpayer appeals, pursuant to RSA 76:16-a, the following assessments for the 1988 tax year.

Map R 1.004.01	land	\$229,600
	buildings	<u>64,650</u>
	total	\$294,250
Map R 1.004	land	\$ 85,100
	buildings	<u>56,300</u>
	total	\$141,400
Map R 1.003.01	land	\$ 41,050
	buildings	<u>17,650</u>
	total	\$ 58,700
Map R 1.003	land	\$ 37,300
	buildings	<u>7,100</u>
	total	\$ 44,400

Neither party challenged the Department of Revenue Administration's equalization ratio of 100 percent for the 1988 tax year for the Town of Bristol. Based on that ratio the Taxpayer's assessment equates to a market value of \$538,750.

The Taxpayer argued it was overassessed based on Paul J. Doucette's opinion that the four lots were worth \$392,000 as of May 11, 1989. The Taxpayer stated the properties were reduced in value by Mr. Duchesne's sister's life lease lien; however, his sister did not pay taxes on her rights in the subject property; the Taxpayer agreed to pay those taxes.

The Town stated its value was based on a front-foot value of \$2,500 which was derived from one sale in Bear Mountain Cove. The \$2,000 front-foot value for the rest of Newfound Lake was derived from several sales. The Town recommended reducing the building values on Map R 1.003.01 and Map R 1.004.

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).

Rights to property are taxable. See RSA 21:21, RSA 75:1, and Gowan v. Swain, 90 N.H. 383, 387-88 (1934).

The Board finds as follows. The Taxpayer agreed to pay the taxes of Mr. Duchesne's sister. Her interest being subject to taxation, the Taxpayer is liable for those taxes. The building on Map R 1.003.01 and R 1.004 are overassessed as stated by the Town. The proper front-foot value of water frontage is \$2,000.

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

Map R 1.004.01	land	\$184,100
	building	<u>64,650</u>
	total	\$248,750
Map R 1.004	land	\$ 94,150
	building	<u>45,600</u>
	total	\$139,750
Map R 1.003.01	land	\$ 51,250
	building	<u>13,700</u>
	total	\$ 64,950

Map R 1.003	land	\$ 41,350
	building	<u>7,100</u>
	total	\$ 48,450

If the taxes have been paid, the amount paid on the value in excess of \$501,900 is to be refunded with interest at six percent from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

April 27, 1990

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Anne S. Richmond, Chairman

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(Mr. Twigg did not sit)  
George Twigg, III

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Peter J. Donahue

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Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Robert and Helen Duchesne, representing the Taxpayer, to the Chairman, Board of Selectmen, Town of Bristol, and to Richard Young, Director, Property Appraisal Division.

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Michele E. Brun, Clerk

April 27, 1990

Bear Mountain Cove, Inc.

v.

Town of Bristol

Docket No. 5290-88

AMENDED DECISION

In a letter from the Taxpayer received by the Board on June 4, 1990, Mr. Duchesne questions the increase in assessment due to the Board's decision of Parcel R1.003.01 from \$58,700 to \$64,950 and of Parcel R1.003 from \$44,400 to \$48,450.

The Board finds two calculation errors in its ordered assessments in the April 27, 1990 decision. Therefore the Board corrects and amends its April 27, 1990, decision on page 3 as follows:

The Taxpayer agreed to pay the taxes of Mr. Duchesne's sister. Her interest being subject to taxation, the Taxpayer is liable for those taxes. Therefore the 20 percent adjustment on the land of Parcel R1.003.01 and the 10 percent adjustment on Parcel R1.003 for "encumbrance due to lifetime lease" are incorrect and are removed so as to tax the entire estate.

The buildings on Map R1.003.01 and R1.004 are overassessed as stated by the Town.

The proper front-foot value of water frontage is \$2,000 per foot as opposed to \$2,500 used by the Town.

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

Map R1.004.01	land	\$184,100
	building	<u>64,650</u>
	total	\$248,750
Map R1.004	land	\$ 85,100
	building	<u>45,600</u>
	total	\$130,700
Map R1.003.01	land	\$ 41,050
	building	<u>13,700</u>
	total	\$ 54,750
Map R1.003	land	\$ 41,350
	building	<u>7,100</u>
	total	\$ 48,450

If the taxes have been paid, the amount paid on the value in excess of \$482,650 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

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George Twigg, III

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Peter J. Donahue

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Paul B. Franklin

I certify that copies of the within Amended Decision have been mailed this date, postage prepaid, to Robert and Helen Duchesne, representing the Taxpayer, to the Chairman, Board of Selectmen, Town of Bristol, and to Richard Young, Director, Property Appraisal Division.

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Michele E. LeBrun, Clerk