

William R. Huber  
v.  
Town of Bristol

Docket No. 5310-88

DECISION

A hearing in this appeal was held, as scheduled, on March 6, 1990. The

Taxpayer was represented by himself and Robert Lepine. The Town was represented by John McSorley, Department of Revenue Administration appraiser.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$159,150 (land, \$74,850; building, \$84,300) placed on his real estate located on West Shore Road (Map R-11, Lot 56-1) for the 1988 tax year. The property consisted of a dwelling and attached garage on approximately .45 acre of land.

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 \$159,150.

The Taxpayer challenged the assessment on the land only. He argued the land assessment of \$74,850 was greater than its market value based on an appraisal by Bruce K. Platts which determined the land value of the subject

property to be \$20,000. The Taxpayer noted such problems as lack of deeded access to Newfound Lake, high traffic volume in the summer, no lake view, potential loss of view if intervening lot is built on, need to drive to Town beaches, distance from services, and water on the lot.

The Town stated the \$800 front-foot value placed on the subject property was the same as other lots in the area without deeded water access rights and that its front-foot values were based on 1987 sales. The Town stated its front-foot value was supported by the Holiday Acres sales and argued the comparable sales used by Mr. Platts were raw land sales and therefore not comparable to the subject property.

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 as follows. Raw land sales are not comparable to developed lots. The subject property did not have deeded access to Newfound Lake and was not assessed as having deeded access. The subject property has access to Newfound Lake via two Town beaches, one 300 feet away, the other one-quarter mile away. The subject property is one lot distant from Newfound Lake. The residential value of the subject property is enhanced by its proximity to Newfound Lake and the Town beaches on that lake. The subject property also has commercial value in that commercial use is allowed, commercial use has existed on the property for several years, and commercial use is proposed for the property across the street. The high level of traffic on West Shore Road enhances the subject property's commercial value. The Board is unconvinced the market value of the subject property was less than \$159,150 on April 1, 1988.

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden.

The Board directs the Taxpayer's attention to RSA 72:37 and RSA 72:38-a for other possible avenues for seeking tax relief.

The ruling is, therefore:

Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Anne S. Richmond, Chairman

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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 decision have been mailed this date, postage prepaid, to William R. Huber, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Bristol.

Michele E. LeBrun, Clerk