

Herbert D. Redden and Lorraine F. Redden  
v.  
Town of Epping

Docket No. 5402-88

DECISION

A hearing in this appeal was held, as scheduled, on May 22, 1990. The Taxpayers represented themselves. 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 \$46,500 placed on their manufactured housing unit located at 30 Highland Drive in the Pine and Pond Park. The property is a single-wide 14-foot by 66-foot manufactured home with no additions or 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 testified that they had purchased their home in June 1985 for \$35,000. They stated they tried to sell their unit in 1988 by themselves by a three-day advertisement in the Boston Herald and by having a sign in the window. At the asking price of \$42,000, they stated they had no interest, with several lookers stating that the taxes and the unit's being on a leased lot were detriments.

The Taxpayers also argued their unit was very plain, being a single-wide without any additions or porches.

The Town presented five sales of comparable manufactured housing units, all in Pine and Pond Park, from May 1987 to May 1989 with sales prices from \$46,500 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 Taxpayers' 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 Taxpayers' method of advertising their unit for sale raises the question of whether their property was given adequate exposure to the market and thus their inability to sell the unit for \$42,000 is less than probative evidence.

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

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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 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

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Michele E. LeBrun, Clerk