

Robert J. Martos and Patricia Martos

v.

Town of Bristol

Docket No. 5434-88

DECISION

A hearing in this appeal was held, as scheduled, on March 7, 1990. The Taxpayers were represented by Robert J. Martos, one of them. The Town was represented by John McSorley, Department of Revenue Administration Appraiser.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$158,300 (land, \$143,050; buildings, \$15,250) placed on their real estate located on West Shore Road (Map R-11, Lot 36), for the 1988 tax year. The property consisted of a dwelling and sheds on .32 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 Taxpayers' assessment equates to a market value of \$158,300.

The Taxpayers argued they were overassessed based on incorrect acreage on the assessment card and on an appraisal by Bruce Platts. They also argued they were overassessed compared to a neighboring property.

The Town's position was that the neighboring property was probably underassessed, the Town's front-foot values in the area were based on two sales, and the Taxpayer was assessed for more land than he owned. The Town

recommended reducing the land assessment based on smaller acreage; i.e.,

.32 acre, not .37 acre, and increased topographical depreciation.

The Board's review appraiser determined the market value of the subject property to be \$147,350 on April 1, 1988.

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, 7 N.H. 513, 517; Rollins v. Dover, 93 N.H. 448, 450." Bemis v. Claremont, 98 N.H. 446, 452 (1954). The assessment of one other property does not establish the disproportional assessment of the subject property compared to all other properties in the taxing district since that particular property may be underassessed.

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. The land has an average depth of 140 feet and is .32 acre, not .37 acre as listed on the assessment card. The neighboring property may have been underassessed. The appraisal of Bruce Platts was not helpful in determining market value on April 1, 1988, since the sales used were from December 8, 1984 through July 1986 and the circumstances of the sales were unknown to the Board, as was the purpose of the appraisal. The Board concurs with the assessment recommended by the Town which reflects the .32-acre area and increased topographical depreciation. This figure is supported by the figure of the Board's review appraiser.

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

Land	\$129,850
Buildings	<u>15,250</u>
Total	\$145,100

If the taxes have been paid, the amount paid on the value in excess of \$145,100 is to be refunded with interest at six percent per annum from date of payment to date of refund.

March 29, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Chairman

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the above decision have been mailed this date, postage prepaid, to Robert J. and Patricia Martos, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Bristol.

Michele E. LeBrun, Clerk

March 29, 1990