

Cindy E. DeCarteret

v.

Town of Deerfield

Docket No. 5462-88

DECISION

A hearing in this appeal was held, as scheduled, on June 29, 1990. The Taxpayer represented herself. The Town was not represented.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$35,700 placed on her real estate, located on Mountain Road for the 1988 tax year. The property is a "condex" situated with the other unit on 5.4 acres of land.

The Taxpayer testified that she had purchased the condex in October of 1987 for \$72,500 after it being on the market for 6 months. She stated that to her knowledge this was the only condex in Deerfield. She testified that both units were only 600 square feet with no basement and only one bedroom and bath.

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. 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 rules that the units small size and lack of basement restricts its utility and marketability. Therefore, the Board rules that the assessment be adjusted by 15 percent for those reasons, and the proper 1988 assessment is \$30,350.

If the taxes have been paid, the amount paid on the value in excess of \$30,350 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

George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: July 31, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Cindy E. DeCarteret, taxpayer; and Chairman, Selectmen of Deerfield.

Michele E. LeBrun, Clerk

Date: July 31, 1990

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