

Charles Allen and Claire Allen

v.

Town of Bristol

Docket No. 5531-88

DECISION

A hearing in this appeal was held, as scheduled, on March 9, 1990. The Taxpayers represented themselves. The Town was represented by John McSorley, appraiser for the Department of Revenue Administration.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$117,150 (land, \$63,750; buildings, \$53,400) placed on their real estate, located on Castle Lane, for the 1988 tax year. The property consists of approximately a one-acre improved lot with a log dwelling and is identified as Map R7, Lot 98-1.

Neither party challenged the Department of Revenue Administration's equalization ratio of 100 percent for the 1988 tax year.

The Taxpayers testified that they were questioning the land value only as being higher than any sales they were aware of. They stated that the lot had been purchased in 1984 for \$11,000 and that they had borrowed a total of \$50,000 in 1985 to construct the shell and some of the interior. They testified that they did much of the work themselves and they gradually did more interior finish with "out-of-pocket" money.

Upon questioning, Mr. Allen stated that in his opinion the market value of the property in 1988 was \$100,000 to \$120,000.

Mr. McSorley testified that the front-foot price of \$500 for this area was derived from sales in 1987 that were trended to the assessment date of April 1, 1988, at 2 percent per month.

Mr. McSorley submitted the sale (Exhibit TN-A) of a property two lots removed from the Taxpayers' property. The property sold on April 6, 1988, for \$115,000 and was appraised for \$112,900. Mr. McSorley stated that the lot and dwelling were both slightly smaller than the Taxpayers' but otherwise quite comparable.

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 Board rules that in determining a taxpayer's just and fair share of the tax burden the total of the taxpayer's property (in this case the land and building components) must be assessed proportionally. "Equity requires that the plaintiffs be relieved by an abatement of such sum as they have paid in excess of their share of the common burden. Their share is such a proportion of the whole tax as the true value of their property bears to the true value of all the taxable estate in the city . . . the fact that some classes of their estate were appraised too high would not entitle them to an abatement if the error were neutralized by an undervaluation of other estate. 'Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellant.' Edes v. Boardman, 58 N.H. 580, 588, overruling Dewey v. Stratford, 42 N.H. 282, 289." Amoskeag Mfg. Co. v. Manchester, 70 N.H. 105.

The Board finds, based on testimony of both parties, that \$117,150 is a reasonable estimate of the market value of the Taxpayers' entire estate in Bristol in tax year 1988.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(Ms. Richmond did not sit)

April 9, 1990

Anne S. Richmond, Chairman

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Charles and Claire Allen, the Taxpayers, to the Chairman, Board of Selectmen, Town of Bristol, and to Richard Young, Director, Property Appraisal Division, Department of Revenue Administration.

April 9, 1990

Michele E. LeBrun, Clerk