

**Hazel S. Roberts**  
**v.**  
**Town of Goffstown**

**Docket No. 5590-88**

**DECISION**

A hearing in this appeal was held, as scheduled, on July 27, 1990. The Taxpayers were represented by Timothy E. Britain, Esq.. The Town was represented by David W. Bolton, Appraiser for M.M.C., Inc..

The Taxpayers appeal, pursuant to RSA 76:16-a, the 1988 assessment of \$63,100 (land only) for Map 3, Lot 26 and \$300,300 (land only) for Map 3, Lot 27.) Map 3, Lot 26 consists of 10 acres of unimproved land, while Map 3, Lot 27 is 30 acres of unimproved land.

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

Mr. Britain represented the valuation results of an appraisal done by Robert C. Comito for the Taxpayer. Map 3, Lot 26 he argued had a value of only \$18,000, as it had severe building limitations due to 84% of the land being incumbered by a New England Power Co. powerline right of way and the balance of the land being quite ledgy. Mr. Comito had estimated the value of Map 3, Lot 27 to be \$170,346. Mr. Britain stated that the stream and wetland along most of the frontage and the slopes and ledgy soils of most of the backland limited the overall utilization of the parcel.

Mr. Bolton recommended for Map 3, Lot 26 the condition factor on the "prime site" be reduced from 090 to 050 to reflect the lack of septic or water supply, the topography and the powerline right-of-way. He also recommended reducing the rear land condition factor from 050 to 025 due to the powerline easement. These recommended changes resulted in a revised change in the

assessment to \$34,000.

For Map 3, Lot 27 Mr. Bolton recommended reducing the condition factor on the "prime site" from 090 to 080, on the rear land from 080 to 050 and on the frontage from 090 to 050. He argued that these recommended changes resulted in a revised assessment for Map 3, Lot 27 of \$187,700.

Mr. Britain in his closing indicated that the Town's recommended revisions of the assessments were acceptable to his client.

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 the testimony and evidence presented by both the Town and Taxpayer indicates that both parcels have significant development limitations due to topography and the powerline easement. Therefore the Board rules that the Towns recommended adjustments are reasonable resulting in the assessment of \$34,000 for Map 3, Lot 26 and \$187,700 for Map 3, Lot 27.

If the taxes have been paid, the amount paid on the value in excess of \$221,700 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, Chairman

---

Peter J. Donahue, Member

---

Paul B. Franklin, Member

Date: August 24, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to E. Tupper Kinder, Esq., counsel for Hazel S. Roberts, taxpayer; Chairman, Selectmen of Goffstown; and David W. Bolton, Senior Appraiser for M.M.C., Inc.

---

Michele E. LeBrun, Clerk

Date: August 24, 1990

0009