

Ebrahim Masalehdan and Wendy J. Masalehdan

v.

Town of Bristol

Docket No. 5594-88

DECISION

A hearing in this appeal was held, as scheduled, on April 20, 1990. The Taxpayers were represented by Wendy Masalehdan, one of them. 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 \$64,150 for a land only parcel, placed on their real estate, located at Wulamet Hill Estates and identified as Map 5, Lot 75-7 for the 1988 tax year.

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

Mrs. Masalehdan argued they were overassessed based on their purchase of the lot in January of 1987 for \$33,500 and the fact that the developer of Wulamet Hill Estates had not completely finished the road and consequently the Town had not accepted nor maintained the road.

Mr. McSorley stated that of the eleven lots in Wulamet Hill Estates six had sold from January 1, 1987 to December 31, 1987, the analysis period used for determining values for the 1988 reassessment. Two sold in January of 1987 (including the Taxpayers) for \$23,900 and \$33,750. Four sold in the summer of 1987, with actual or indicated land prices of \$55,000 to \$87,200. He further testified that one of these four lots that sold in July of 1987 for \$62,250 resold in December of 1988 for \$73,000.

Mr. McSorley argued that the last four sales are more indicative of the market value of the Taxpayers lot, as of April 1, 1988, than the first two sales

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which took place before either the seller or buyer were aware of the true market value of the lots in the development.

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 that the public's knowledge and perception of the status of the road was the same on April 1, 1988, as it was during 1987. This is evidenced in Taxpayers Exhibit #1, a letter from the Town's Administrative

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Assistant to the Taxpayers dated September 3, 1987, stating in part that even if all defects in the road are corrected, the earliest the Town would accept the road would be the spring or summer of 1988 after it had gone through a winter. Thus, the Board finds that any effect on value that the status of the road may have would be subsequent to the 1988 tax year.

The Board finds that assessment of \$64,150 is reasonable and is well documented and bracketed by the four sales in the summer of 1987 and the sale subsequent to the revaluation in December of 1988.

The earlier two sales were not representative of the market established for the Taxpayers property by the assessment date of April 1, 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

George Twigg, III, Member

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: May 9, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Ebrahim & Wendy J. Masalehdan, taxpayers; Chairman, Selectmen of Bristol; and Richard Young, Director, Property Appraisal Division, Department of Revenue Administration.

Michele E. LeBrun, Clerk

Date: May 9, 1990

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