

Carl R. Rossetti and Dorothy A. Rossetti  
v.  
Town of Bristol

Docket No. 5739-88

DECISION

A hearing in this appeal was held, as scheduled, on May 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 1988 assessments of \$68,000 (land, \$39,900; buildings, \$28,100), \$27,350 (land only), and \$27,850 (land only) for parcels R11, lot 21, R11, lot 20, and R11, lot 26, respectively. The property consists of three contiguous lots totaling approximately 3/4 of an acre, with a dwelling, on Mt. Celo Road.

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

The Taxpayers argued that the total land value of the three parcels of \$95,100 was excessive as the property was accessed by only an unmaintained 12-foot right-of-way that limited the property's utility to 5 months. The Taxpayers further argued that they had no view of the lake and no deeded access to the lake--only access via the town beach approximately 1/2 mile away.

The Taxpayers submitted recent listings of parcels in the Schakett subdivision of one to two acres in the high \$30,000 range.

Mr. McSorley indicated that there had been no sales on Mt. Celo Road during the revaluation. Consequently the appraiser had compared the area to the Holiday Hills development where the lots were of similar size. He stated that the same front-foot price of \$800 was applied to properties on Mt. Celo Road with a -30 percent adjustment applied to account for the unmaintained condition of Mt. Celo Road as opposed to the year-round maintained roads in Holiday Hills. Mr. McSorley stated that the value of the common beach area for Holiday Hills had been appraised separately and was not part of the \$800 front-foot value. He further stated that the excess frontage and undeveloped factors of the three lots were based on their combined frontage.

The Board finds 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, 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 listings submitted by the Taxpayers not to be probative evidence of the market value of their property as the distinct neighborhoods and locations are quite different and as the listings were in 1990 and were not actual sales.

The Board finds the Town's comparison of the Taxpayers' property to the Holiday Hills properties and the subsequent adjustment for the difference in access to be reasonable.

However, the Board finds the testimony is clear that the use of these three parcels is integrated (dwelling on one lot, septic on another, and parking on the third) and the utility of each lot is very limited, if considered as separate lots. Consequently, the Board rules that these lots are not so situated as to become separate estates in the context of RSA 75:9 and thus should be appraised and listed as one estate.

RSA 75:9 Separate Tracts. Whenever it shall appear to the selectmen or assessors that two or more tracts of land which do not adjoin or are situated so as to become separate estates have the same owner, they shall appraise and describe each tract separately and cause such appraisal and description to appear in their inventory.

Therefore the Board rules the land should be valued as one parcel and

calculated as follows:

185	184	\$800	1.20	.85	.86	.91	.70	=	\$ 82,700
frontage	depth	unit price	depth factor	topo	excess frtg	undev	road cond		
								Water and septic	<u>5,000</u>
								Total land value	\$ 87,700
								Building value	<u>28,100</u>
								Total value	\$115,800

If the taxes have been paid, the amount paid on the value in excess of \$115,800 is to be refunded with interest at six percent per annum from date of payment to date of refund.

May 21, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III

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Peter J. Donahue

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Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Carl R. and Dorothy A. Rossetti, the Taxpayers, to the Chairman, Board of Selectmen, Town of Bristol, and to Richard Young, Director, Property Appraisal Division.

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Michele E. LeBrun, Clerk

May 21, 1990