

Gordon H. Lavender and Dorothy A. Lavender
v.
Town of Bristol

Docket No. 5741-88

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 from the Department of Revenue Administration.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$73,150 (land, \$56,250; building, \$16,900) placed on their real estate, located on Lakeside Road, for the 1988 tax year. The property consists of Unit #15 of Bristol Shores condominiums.

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 they were overassessed in comparison to the Prince cottage (unit) which was larger and had a larger percentage of the common area and yet was assessed \$2,200 less. The Taxpayers testified that their cottage was the middle one of five on this level of the development and while it had a slightly better view than the Prince cottage, it also had less privacy.

Mr. McSorley described Bristol Shores as a cabin colony of 14 cottages built on three different tiers above Lake Newfound that were organized as condominiums in 1969. He testified that only one of the units located

directly on the lake had sold during the revaluation.

He argued that, lacking sales of other units on the two levels above the lake, an analysis was done using the original sales of the units in the mid 1970's to see if there was a correlation between the percent ownership of the common area (which was calculated on the square footage of living area in each unit) and the sale price. He stated that those sales showed no relation of percent of interest to the selling price. Rather, he argued location was key to value. Consequently, based on several sales of similarly located properties in the Town, the appraisers had adjusted the indicated lake front land value by 20 percent for units situated on the middle tier and by 25 percent for units on the top tier.

Mr. McSorley further testified that due to the slope of the land and the way the Taxpayers' cottage was "stepped" into the hill, the front portion of the cottage was listed as two story with a deduction made for the unfinished area on the first level.

The Board's review investigator, in his report of the property, recommended no change in value.

The Board finds 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 Town's approach to valuing the Taxpayers' unit is reasonable and produces as equitable and proportional assessment as possible in light of the paucity of sales. Further, the Board finds that the Town's methods and values generally correspond with the Board's experience and specialized knowledge of these types of properties. The Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

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.

May 21, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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 Gordon H. and Dorothy A. Lavender, the Taxpayers, to the Chairman, Board of Selectmen, Town of Bristol, and to Richard Young, Director, Property Appraisal Division.

May 21, 1990

Michele E. LeBrun, Clerk