

John D. Starr  
v.  
Town of Bethlehem

Docket No. 4656-88

DECISION

A hearing in this appeal was held, as scheduled, on June 6, 1990. The Taxpayer represented himself. The Town was represented by Bruce J. Bean.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$216,700 (land, \$67,950; buildings, \$148,750) placed on his real estate, located on Lehan Road (Map 401, Lot 19) for the 1988 tax year.

The parties agreed that the equalization ratio for the Town of Bethlehem for the 1988 tax year was 100%.

This appeal involves 2.4 acres not in current use. The appellant and his mother each have separate residences with a long driveway providing access from the road (.4 mile x 18' wide).

The Taxpayer complained that he was assessed as if he had two separate lots.

The Town's representative, Mr. Bruce J. Bean, noted an open area of approximately 7 3/4 acres with a view of Franconia Notch.

The Board's Review Inspector, Mr. J. Philip Estey, notes in his written report that adjustments to the building were made satisfactory to the Taxpayer.

The Board finds that although there are not two salable lots, there is under the current use theory an additional "home site", which supports a second year round dwelling, and notes, as a result, a contributory value to the entire parcel.

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. If all the other taxable estate in the city except the plaintiffs' were appraised at its true value, the appraisal of theirs at a sum equal to the true value of the whole would assign to them their share of the common burden; and 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 under-valuation 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. 200

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's 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: August 7, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to John D. Starr, taxpayer; and Chairman, Selectmen of Bethlehem.

---

Michele E. LeBrun, Clerk

Date: August 7, 1990

0009