

Gilbert E. Hutchinson

v.

Town of Bethlehem

Docket No. 5190-88

DECISION

A hearing in this appeal was held, as scheduled, on June 5, 1990. In correspondence to the Board Mr. Hutchinson indicated he would be unable to attend the hearing. The Town was represented by Robert Camp, appraiser for the Department of Revenue Administration.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of \$82,500 (land only) placed on his property for the 1988 tax year. The property consists of approximately 50 acres of unimproved land off of Gale River Road and identified as Map 422, Lot 3.

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

The Taxpayer, in various correspondence on file with the Board, argued he was overassessed as "the property is landlocked, with only limited access controlled by the U. S. Forest Service from USFS Road #92," and further, "that comparable landlocked real estate in Bethlehem has been appraised at values much lower than our property."

Mr. Camp agreed that an abutting comparable property had received a 75

percent adjustment for access and development limitations. He recommended the

Taxpayer's parcel should receive the same adjustment, which would result in a corrected assessment of \$20,000.

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 it appears to have been an oversight or error by the appraisers in consistently appraising the two abutting landlocked parcels.

The Board finds the Town's recommended correction accounts for the access problem and also accounts for the incremental difference in value for the Taxpayer's 50 acres versus his neighbor's 150 acres.

Therefore, the Board rules that the proper assessment for the 1988 tax year is \$20,000.

If the taxes have been paid, the amount paid on the value in excess of \$20,000 is to be refunded with interest at six percent per annum from date of payment to date of refund.

June 15, 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 Gilbert E. Hutchinson, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Bethlehem.

June 15, 1990

Michele E. LeBrun, Clerk