

**Bethlehem Properties, Inc.**

**v.**

**Town of Bethlehem**

**Docket No. 5651-88**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment on the following properties, with reference to the Town tax maps:

Map 408, Lot 17

\$773,700 (land \$375,600; building \$398,100);

Map 205, Lot 131

\$98,100 (land \$21,800; building \$76,300);

Map 203, Lot 48

\$149,100 (land \$27,150; building \$121,950);

Map 203, Lot 49

\$48,350 (land \$25,350; building \$23,000);

Map 204, Lot 47

\$195,400 (building only \$195,400); and

Map 204, Lot 48

\$165,850 (land \$34,300; building \$131,850).

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying a disproportionate share of taxes. See RSA 76:16-a; TAX 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 216 (1985). We find the Taxpayer failed to carry this burden on all lots except for Map 408, Lot 17.

Map 202, Lot 131

The Taxpayer raised two main issues about this property: 1) the land assessment for this smaller lot was comparatively higher than nearby larger lots; and (2) the garage assessment was excessive. The Town argued the assessment was proper and was arrived at using the same manual used throughout the Town. The Town also presented evidence on how the land assessment was calculated. The Town's testimony established that in the market larger lots have a lower square-foot value than smaller lots. The board notes it is common knowledge that the market generally values larger lots at a lower square-foot value. For example, a buyer would not pay twice as much for a 2-acre lot as compared to a one-acre lot. This conclusion is well supported and is a generally recognized appraisal principle.

After reviewing the evidence and the property record cards, the board finds the Taxpayer has not proven disproportional taxation, and thus this appeal is denied.

Map 203, Lot 48

The Taxpayer raised two main issues about this property: 1) the excessive assessment on the basement utility; and 2) the building assessment was excessive compared to a comparable property submitted by Taxpayer. The Town argued, the assessment was proper and was arrived at using the same manual used throughout the Town.

After reviewing the evidence and the property record cards, the board finds the Taxpayer has not proven disproportional taxation, and thus this appeal is denied.

Map 203, Lot 49

The Taxpayer's raised two issues about this property: 1) the land assessment was excessive when compared to properties with larger lots; and 2) the building's assessment was excessive compared a comparable property submitted by the Taxpayer. The Town argued, the assessment was proper and was arrived at using the same manual used throughout the Town. The Town also presented evidence on how the land assessment was calculated. Again, the

board is aware of the general appraisal principle that the larger lots are valued less per-square foot than smaller lots.

After reviewing the evidence and the property record cards, the board finds the Taxpayer has not proven disproportional taxation, and thus this appeal is denied.

Map 204, Lot 47

The Taxpayer raised two main issues: 1) the land assessment was excessive when compared to other larger lots; and 2) the driveway assessment was excessive. The Taxpayer also expressed some concern about the building's assessment. The Town argued, the assessment was proper and was arrived at using the same manual used throughout the Town. The Town also presented evidence on how the land assessment was calculated. Again, the board is aware of the general appraisal principle the larger lots are valued less per-square foot than larger lots. Finally, the Taxpayer testified the property was sold in December 1988, for \$205,000.

After reviewing the evidence, including the sales price and the property record cards, the board finds the Taxpayer has not proven disproportional taxation, and thus this appeal is denied.

Map 204, Lot 48

The Taxpayer raised two main issues: 1) the land assessment was excessive when compared to other larger lots; and 2) the house assessment was excessive. Town argued, the assessment was proper and was arrived at using the same manual used throughout the Town. The Town also presented evidence on how the land assessment was calculated. Again, the board is aware of the general appraisal principle the larger lots are valued less per-square foot than larger lots. Finally, the Taxpayer testified the property was sold in May 1989 for \$195,000.

After reviewing the evidence, including the sales price and the property record cards, the board finds the Taxpayer has not proven disproportional taxation, and thus this appeal is denied.

Map 408, Lot 17

Before addressing the merits of this lot, the board wishes to express its frustration with the parties' lack of organization in presenting the evidence on this lot. The board realizes the Town made several adjustments to the property-record cards both during the revaluation and for subsequent tax years. Unfortunately, the cards are not always clear on the applicability of adjustments to an appealed tax year. In the future when the cards have numerous adjustments and several buildings, the board would appreciate receiving a separate, typed summary of the cards, listing the final values assessed to the taxpayer. Such a summary was not provided here, and the board had to spend its limited time determining how the final 1988 assessment was calculated. The Taxpayer also should have organized its presentation, and it should have submitted a written summary of its argument. The Taxpayer's failure to do so required a substantial time investment on the board's part. Moving on.

This lot consists of seven components: 1) the land (\$375,600); 2) the stone apartment building, aka "the chauffeur's quarters" (\$163,650); 3) the white house (\$37,500); 4) the old mansion (\$98,500); 5) the barn (\$43,750); 6) the tan cottage (\$51,050); and 7) another cottage that was razed in 1989 (\$3,650). The board has found the Taxpayer has demonstrated adjustments should be made to components 1, 2 and 6, but no adjustments are warranted for the other components.

In making these adjustments, the board is mindful of the difficulty posed in assessing this lot, and the board notes the Town's assessors made a credible attempt at properly assessing this lot. Nonetheless, the Taxpayer raised sufficient issues to require adjustments.

Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979); see also Marshall Valuation Service, Section 1, Page 2 (March 1989). This board, as a quasi-judicial body, must weigh the evidence and apply its judgement in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975). In making a decision on value, the board looks at the property's value as a whole (i.e.,

as land and buildings together) because this is how the market views the property.

The board has thus considered this property as a whole, finding that when viewed this way the assessment was high. (This conclusion is also supported by the Taxpayer's 1985 purchase price of \$210,000, everafter giving consideration to renovations and appreciation.) This written decision will address the assessment by component since this was the method used by the Town. Furthermore, this approach allows the board to focus on what the Taxpayer proved was in error.

Based on the evidence, the board finds the correct assessment to be \$685,400 (land \$340,000; buildings: stone house \$135,000, white house \$37,500, old mansion \$98,500, barn \$43,750, tan house \$27,000, and other cottage \$3,650).

**Land.** The Taxpayer questioned the land assessment and raised three issues: 1) the wetlands problem, asserting 60-70% of the land was unbuildable; 2) the lack of town sewer; and 3) the fact that not all of the land was in the water district. Based on this evidence and after reviewing the Town's figures, we find the proper land assessment to be \$340,000. The primary reason for this adjustment is the board's conclusion that more land should have assessed as "poor" or "wetlands" than was done by the Town. However, the Taxpayer failed to support its assertion that 60-70% of the land was wetlands.

**Stone House.** The Taxpayer argued this assessment was high, especially given the rents collected from the 4 units. The correct assessment is \$135,000, which was arrived at by increasing both the physical and functional depreciation to 25%.

**Tan Cottage.** The Taxpayer presented substantial evidence that the tan cottage was overassessed, focussing on its poor condition and the difficulty in renting the cottage. The correct assessment is \$27,000, which was arrived at by increasing both the physical and functional depreciation to 60%. (We note that this property consists of several buildings on one legal lot, and thus, assessing each building as if were on its own legal lot is not always correct.)

Conclusion

If taxes have been paid on all Taxpayer's property, the amount paid on the value of Map 408, Lot 17 in excess of \$685,400 shall be refunded to the Taxpayer with interest at six percent per annum from the date paid to the date refunded.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

May 8, 1991

George Twigg, III, Chairman

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Bethlehem Properties, Inc., the Taxpayer, and to the Chairman, Board of Selectmen, Town of Bethlehem.

Michele E. LeBrun, Clerk

May 8, 1991