

Frances Marszalkowski and Steve Marszalkowski

v.

Town of Bethlehem

Docket No. 5652-88

DECISION

The Taxpayers appeal pursuant to RSA 76:16-a the Town's 1988 assessments itemized as follows:

Map 204, Lot 61: \$293,950 (land, \$45,400; building, \$248,550)

Map 203, Lot 11: \$33,500 (land, \$29,450; building, \$4,050)

Lot 61 consists of the Taxpayers dwelling with garage on a 1.3 acre lot on Berkley Street. Lot 11 consists of a small dwelling on 1.1 acres on Prospect Street. For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved they were disproportionately taxed.

Map 204, Lot 61

The Taxpayers argued the lot value was excessive in comparison with the assessment of several comparable properties. They also argued that unfinished and unrenovated portions of the dwelling reduced its market value. They stated that the living area in the garage was not an apartment but rather guest quarters that consisted of a bedroom with a partial bathroom. The Taxpayers submitted 2 appraisals; the first, dated March of 1985, estimated the value of \$185,000 and the second, dated May of 1987, estimated the value then at \$213,000.

The Town stated that the land base values were derived from sales of properties in the area and that the Taxpayers' comparables all had larger lot

sizes which the market indicates should be valued at less per acre than smaller

lots. The house was of excellent quality construction in good condition and had been reduced from a grade 6 to a grade 5 at the time of the reviews after the revaluation.

Map 203, Lot 11

The Taxpayers stated they had purchased the property in June of 1987 for \$22,000 and had made no improvements to it since the purchase. They argued that it would need extensive renovations to be inhabitable.

The Town agreed that the property was presently not in an inhabitable state, but argued the low building value of \$4,050 recognized that fact. They submitted a sale of Map 203, Lot 6 that occurred in May of 1989 for \$25,000 as support for the basic land and building values used during the revaluation.

The Board finds and rules as follows.

Map 204, Lot 61

While there is good evidence that the house is an excellent quality victorian house, there existed, in April of 1988, many unfinished, unrenovated and functional features that the market would recognize in the sale of a house of this quality. The Board rules that the replacement cost of \$342,350 should be reduced by 25% physical depreciation and 25% functional depreciation. The Town's value for the finish in the garage is reasonable. However, as the living area within the garage is clearly accessory to the dwelling, the water and sewer connection value should be reduced by \$1,000. These adjustments result in a correct assessment of \$252,700 (land, \$44,400; building, \$208,300).

The Board rules that the market does indeed recognize higher per unit values for smaller parcels than for larger lots and thus the land value is reasonable and proportional.

Map 203, Lot 6

The Board finds that the Taxpayers' purchase price of \$22,000 a year earlier does not dictate the property's market value in 1988. Several sales, not one sale alone, indicate a market. The Town's sale (Exhibit TN-A) of a lot one quarter the size with a somewhat similar quality building supports the Town's assessment of the Taxpayers' property. The Board finds the Taxpayers failed in their burden of proof of showing disproportionate assessment on this property.

Therefore, the Board rules the property total assessment of the Taxpayers property is \$286,200 (\$252,700 plus \$33,500).

If the taxes have been paid, the amount paid on the excess of \$286,200 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Ignatius MacLellan, Member

Date: March 6, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Frances & Steve Marszalkowski, taxpayers; the Chairman, Selectmen of Bethlehem; and Richard Young, Director, Property Appraisal Division, Department of Revenue Administration.

Michele E. LeBrun, Clerk

Date: March 6, 1991

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