

Robert W. Jailer and Mildred Jailer
v.
Town of Bethlehem
Docket No. 5693-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$92,750 (land, \$24,550; buildings, \$68,200) on their house and barn sited on approximately .62 acre at the corner of Lewis Hill Road and South Road (the Property). 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, 125 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved they were disproportionately taxed.

The Taxpayers argued the house and barn were very old, with the barn especially in very poor condition, to the extent of not being restorable. The Taxpayers also argued the ground was wet in the area of the barn.

The Town argued the house and barn warranted further adjustments for physical depreciation and the land should be depreciated for the water condition.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$75,950 (land, \$19,650; buildings \$56,300). This assessment is ordered because both parties presented evidence the buildings and land warranted further depreciation due to physical and topographic conditions.

If the taxes have been paid, the amount paid on the value in excess of \$75,950 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to Robert W. and Mildred Jailer, the Taxpayers, to the Chairman, Board of Selectmen, Town of Bethlehem, and to Richard Young, DRA.

Michele E. LeBrun, Clerk