

**John J. Doran**  
**v.**  
**Town of Bethlehem**

**Docket No. 7141-89 and 8770-90**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$153,400 (land, \$132,800; buildings, \$20,600) on Beech Hill Road (103 acres) (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued that the Property is overassessed because in 1988 the Town set a 35% ratio on the entirety (103 acres) and in 1989 after a portion of the property (72 acres) was put in current use the ratio was increased to 65%.

The Town's representative, Bruce Bean, argued the assessment was proper because the "size and quality discount" referred to as a "ratio" by the Taxpayer varies according to sizes.

The board's inspector inspected the property, reviewed the property tax card, and filed a report with the board. This report concluded the proper assessment should be \$134,800 (land \$114,200; buildings \$20,600) adjustment for swamp land (copy attached).

Based on the evidence we find the correct assessment should be \$127,860 (land, \$107,260 and building \$20,600). This assessment is ordered because:  
(1)the value on rear land should not vary so significantly simply because part of the lot is placed in current use; and

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(2)the board inspector's report indicated a further adjustment was warranted for swamp land.

If the taxes have been paid, the amount paid on the value in excess of \$127,860 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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

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Valerie B. Lanigan, Clerk

Date: April 9, 1992

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