James N. Tamposi, Jr. and Jon J. Tamposi

v.

Town of Bethlehem

Docket No.: 9919-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of $49,200 on lot 63.2 and $178,100 on lot 64 (the Property). The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is denied for lot 63.2 and granted for lot 64.

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 failed to prove disproportionality on lot 63.2, but did on lot 64.

The Taxpayers argued the assessments were excessive because:

1) lot 64 is only 29.9 acres and not 32 acres;

2) lot 63.2 was purchased in July 1988 for $62,970 and lot 64 was purchased in March 1987 for $45,000; and

3) a September 9, 1991 appraisal estimated a $100,000.00 value ($93,000.00 "as is").

The Town argued the assessments were proper because:

1) the "as is" $93,000.00 value is not the same as fair market value;

2) the appraisal did not estimate market value; and

3) the appraisal contained two errors -- the reassessment date and the 1990 equalization ratio.

The board's inspector reviewed the file and property-tax card and filed a report with the board. This report concluded the assessment on lot 63.2 was proper but the proper assessment for lot 64 should be $144,900.

Board's Rulings

Based on the evidence, we find the assessment on lot 63.2 is equitable and the assessment on lot 64 should be $144,900. Therefore, we accept the inspector's evidence as the best evidence. The inspector adjusted the depreciation on lot 64 an additional 5% for topography, 29% for excess frontage and 22% for undeveloped land. The total assessed value of the two lots is then properly $194,100. If equalized by the Town's 1990 equalization ratio of 110%, the indicated market value is $176,455.

The Taxpayers' appraisal, as submitted, is given little weight for four reasons: (a) its definition of value differs from RSA 75:1; (b) the appraisal date (September, 1991) is later than the assessment date; (c) the large adjustments to the comparables; and (d) the lack of proper time adjustments for sales in 1986 and 1988. On this last issue, the appraiser in his description for each sale (pages 40-43) said for the 1986 sales "growth:

increasing at time of purchase", for the 1988 sale "growth: slowing at time of

purchase, and for the 1990 sale "growth: static". Yet, in the adjustment grid, the 1986 and 1988 sales are adjusted a negative 25% for time. If this 25% adjustment is deleted from sales #1 and 2 (the board discounts sales #3 and 4 as being not comparable due to the size of the adjustments), the resulting value indication supports that of the board's inspector.

Therefore, if taxes have been paid on lot 64, the amount paid on the value in excess of $144,900 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:16-a.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to James N. Tamposi, Jr. and Jon J. Tamposi, Taxpayers, and Chairman, Selectman of Bethlehem.

Dated: December 18, 1992

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Melanie J. Ekstrom, Deputy Clerk