

Kerwin E. Hyland and Jean S. Hyland

v.

Town of Bethlehem

Docket No.: 10986-91PT

DECISION

The "Taxpayers" appeal pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$9,800 (land only) (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.

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 carry this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) in 1986 Winn Associates placed a value between \$800 - \$1,000;
- 2) in 1989 a realtor valued the Property at \$2,000; and
- 3) approximately one acre is undesirable land, i.e., undeveloped and has a utility easement.

The Town argued the Taxpayers had no interest in the Property because a tax deed had been passed on the Property on September 26, 1991 and the Town had not sent a 1991 tax bill to the Taxpayers.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the proper assessment should be \$7,350. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

Board Rulings

The board finds the Taxpayers did not have standing to request an abatement and file an appeal as the Taxpayers did not receive the tax bill for the 1991 tax year. Therefore, the board denies the Taxpayers appeal.

For taxpayers to have standing to appeal the tax assessment, they must be a "person aggrieved." See RSA 76:16 (any person aggrieved may apply in writing to the selectmen for an abatement of a tax). The facts in this case indicate the Taxpayers were not "persons aggrieved". While the Taxpayers owned the Property on April 1, 1991, the Property was transferred to the Town for lack of payment of taxes on September 26, 1991. The Town did not issue a tax bill in the fall of 1991 to the Taxpayers for the 1991 tax year because

the Property had been transferred to the Town. Therefore, the Taxpayers had

Page 3
Hyland v. Town of Bethlehem
Docket No. 10986-91PT

no tax liability for the 1991 tax year and have no standing to request an abatement or to file an appeal with this board.

The board notes that apparently the Taxpayers did own the Property in previous years and failed to pay the taxes on the Property. There was no appeal filed for those previous tax years with the board. Consequently, while the Taxpayers may have been persons aggrieved in the previous tax years, they never protected their appeal rights by requesting an abatement and filing an appeal for those earlier tax years.

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Kerwin E. & Jean S. Hyland, Taxpayers; and the Chairman, Selectmen of Bethlehem.

Dated: November 18, 1993

Melanie J. Ekstrom, Deputy Clerk

0009