

**Adele Aronstein**

**v.**

**Town of Bethlehem**

**Docket No.: 11003-91PT**

**DECISION**

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$125,750 (land, 35,550; building, \$90,200) on 1.2 acres improved with a cottage (the Property). The Taxpayer 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 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).

The Taxpayer argued the assessment was excessive because:

- 1) the cottage was built in 1920 with no improvements since then;
- 2) two purchase and sales, one for \$90,000 and \$120,000 did not materialize as loans could not be obtained; and
- 3) a fair market value would be between \$100,000 and \$102,000.

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The Town argued the assessment was proper because:

- 1) the sales agreements were dated 1986 and when time adjusted to the 1988 revaluation indicated a fair market value of \$128,000; and
- 2) adjustments were made to address the condition of the cottage.

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 \$112,850 (land, \$35,550; buildings, \$77,300). The inspector made further adjustments to the building for its age and condition. 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's Rulings**

We find the Taxpayer failed to prove that her assessment was disproportionate for the 1991 tax year. The board notes that the Taxpayer filed an appeal in 1988, based on an assessed value at that time of \$141,300.

That appeal was subsequently withdrawn by the Taxpayer after the assessment was reduced to the value now under appeal of \$125,750 based on a negotiated settlement as indicated on the assessment-record card.

The Taxpayer's arguments for the 1991 appeal are the same as those filed in the withdrawn 1988 appeal.

The board finds that the general level of assessment was 123% as indicated by the department of revenue administration's equalized ratio for

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1991. The estimated market value for 1991, as indicated by the assessed value adjusted by the ratio is \$102,235.

The Taxpayer did not present any credible evidence of the Property's fair market value for 1991. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

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

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Adele Aronstein, Taxpayer; and Chairman, Selectmen of Bethlehem.

Dated: November 18, 1993

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Melanie J. Ekstrom, Deputy Clerk

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**Docket No. 11003-91**

**ORDER**

This order relates to the "Taxpayer's" rehearing request. Under RSA 541:3, rehearing requests must be filed within 20 days of the decision. The decision was dated November 18, 1993.

Therefore, the rehearing request had to be filed by December 8, 1993. The rehearing request was postmarked December 13, 1993, and thus, the request was not timely filed. The rehearing request is denied as untimely.

Please note that **all** documents filed with this board **MUST** be copied to the other party.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

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I certify that copies of the within Order have this date been mailed, postage prepaid, to Adele Aronstein; and Chairman, Selectmen of Bethlehem.

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Valerie B. Lanigan, Clerk

Date: December 29, 1993  
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