

Priscilla Ness

v.

Town of Bethlehem

Docket No.: 12242-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$112,000 (land \$12,150; building \$99,850) on .53-acre lot with a house (the Property). The Taxpayer owns, but did not appeal, Lot 38 assessed at \$91,450 and Lot 39 assessed at \$4,750. The Taxpayer and the Town 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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the house is 150-years old, and has had no improvements in the past 17 years; and
- 2) market values have declined.

The Town argued the assessment was proper because in 1992, the land value was adjusted to correct the acreage and in 1988, the building value was adjusted to address the physical condition.

Board Findings

Based on the evidence, the board finds the Taxpayer failed to prove disproportional assessment.

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry her 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.

The Taxpayer argued the assessment should be reduced because the market for the Property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town/City as a whole to prove her Property is disproportionately assessed.

None of the other information supplied by the Taxpayer would allow the board to reach a contrary conclusion.

Page 3
Ness v. Town of Bethlehem
Docket No.: 12242-91PT

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 Priscilla Ness, Taxpayer; and Chairman,
Selectmen of Bethlehem.

Dated: December 16, 1993

Melanie J. Ekstrom, Deputy Clerk

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