

**Loxley and Priscilla Ness**

**v.**

**Town of Bethlehem**

**Docket No.: 12243-91PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" adjusted 1991 assessment of \$31,650 (land \$17,150; building \$14,500) on a 1.01-acre lot with a house (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 203.09(a); 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) the house suffered substantial damage resulting from a fire in January, 1990; and
- 2) the Property was purchased in February, 1991 for only \$10,000.

The Town argued the assessment was proper because:

- 1) the 1991 assessment was adjusted to \$31,650 to address the fire damage;
- 2) any renovations were considered in the 1992 assessment; and
- 3) the assessment was fair and equitable.

**Board Findings**

Assuming the Town has abated the assessment to \$31,650, we find no further reduction is warranted. The adjusted assessment addresses the fire-damage issue. Concerning the Taxpayers' \$10,000 purchase price, we find this was not evidence of the Property's market value because it was a sale under duress. The Town supplied ample information concerning the seller's financial situation, i.e., that the Property had been lost at tax sale, was reconveyed to the seller, and then the seller conveyed to the Taxpayers.

No further adjustments are warranted also because the Taxpayers did not submit any market evidence. To carry their burden, the Taxpayers 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.

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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 Loxley and Priscilla Ness, Taxpayers; and Chairman, Selectmen of Bethlehem.

Dated: November 16, 1993

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Melanie J. Ekstrom, Deputy Clerk

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