

TOWN BOARD
MARCH 27, 1992

A special meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 3:00 p.m.

PRESENT: Kenneth J. Ringler, Supervisor
Frederick C. Webster, Councilman
M. Sheila Galvin, Councilwoman
Charles Gunner, Councilman
Sheila Fuller, Councilwoman
Bernard Kaplowitz, Esq., Town Attorney

Catherine T. Picarazzi, Deputy Town Clerk

Adopt
Local Law
No. 2 of 1992-
Provisions of
Real Property
Tax - HOMESTEAD

The Supervisor said this is a working session of the Board, it is not a public hearing on this issue. We had listened to the public at a very long meeting the other night. We have heard a great deal of information on which this Board will make a decision on the Homestead provisions. So, this afternoon is a chance for the Board to comment and ask any questions that they might have and for the Board to take action one way or another.

Supervisor Ringler asked if any of the Board Members at this point in time, had any questions on this legislation that they have in front of them. Mrs. Fuller questioned Mr. Lastra, the Assessor, asking if the Board adopted Homestead today, do we necessarily have to implement it when all is said and done, after everyone has gone through the process. Mr. Lastra said it could be adopted into law today and have up until the levy of taxes to rescind it. Mrs. Fuller asked if the levy of taxes is January. Mr. Lastra said obviously the school district taxes, according to the attorneys at Equalization and Assessment, if the law was in existence, they could use it -- obviously, they have to have a hearing and adopt homestead themselves. He said if they extend the taxes and then the Town Board rescinds it, they would not have to refund taxes because the law was in existence at the time of tax collection. He noted the Town Board would have it prior to the school district levying taxes, as long as it was still there. Mr. Lastra said the Board could pass and then rescind it later.

Councilman Webster asked if the School District would also be obligated to rescind it. Mr. Lastra said yes, the next year they would not have the authority, correct. Mr. Webster said just because the Town Board allowed it in in the first place, they would not be grandfathered. Mr. Lastra indicated they would not. He said if the Town Board decided to rescind homestead at any time, the school district would be out.

Councilwoman Fuller asked how long the grievance process is and when it ends. Mr. Lastra said May 26 grievance process ends, that is Grievance Day. He said that is when you come to the conclusion -- of course, he noted small claims is available beyond that. Mrs. Fuller said she understands that. Mr. Lastra said then for certioraris too. Mr. Lastra said then you would have to go to court. Small claims is only available to owner-occupied one, two and three family only. Mrs. Fuller thanked Mr. Lastra.

Councilwomen Galvin asked Mr. Lastra, if homestead was adopted by this Board at this time, at what point in time would we have to determine the percentages you referred to the other night. Mr. Lastra replied that the percentages, to the best of his recollection, are determined when you are establishing tax rates. Ms. Galvin said this would be at time of levy and Mr. Lastra agreed.

Councilman Gunner asked if communities ever delay or postpone the whole process. Mr. Lastra replied he was waiting

for the State to call him back, but he stated that someone told him, that a Town became an approved assessing unit, designated the roll -- so Mr. Lastra would designate the roll, homestead/nonhomestead. He further said they delayed implementation of the homestead provisions for the two tax rates till the following year. According to one of the attorneys at E&A that sounds OK to her, Mr. Lastra said. That's her quote, he said, and that's the best that she can do. Somebody said the Town should talk with her and he said he had a phone call in to her but since 2:00 she has not gotten back to him. He said he wanted to find out if that's what really happened. But according to the attorney at E&A, Mr. Lastra said she said that sounded OK to her. Where basically, Mr. Lastra would go through and designate the roll and the Town Board would not have to adopt the homestead provisions.

Mr. Gunner then asked, if any community because of this type of thing, ever postponed the whole thing because of severe assessment problems. Mr. Lastra asked if Mr. Gunner meant reassessment and he said that it has happened. The big problem with that, Mr. Lastra said, is if you try and implement it next year, all the disclosure notices that the people have received, (the State runs this) right now there is a two year waiting period for new municipality's to come in and get the assistance to do this. Mr. Lastra noted that the Town of Knox did that last year, and they came back this year and thought they could implement the reassessment but, they basically have to redo it over again. Mr. Gunner wanted to know that if there is severe imbalance or something not quite right in the assessment of different parcels of land, you would have to do it over again. Mr. Lastra also stated, the best thing to do is work out all the problems now rather than postponing because you are not going to get this back next year.

Attorney Kaplowitz added, indicating Mr. Lastra could correct him if he were wrong, we are doing this as a result of a court order. People whose assessments are going down or whom feel they have been overassessed have a right to sue. He said there have not been any lawsuits because the law as it stands right now, is if the Town can show it has been working towards it, the courts have taken a position that there are no penalties. Attorney Kaplowitz just wanted to point this out for consideration because if you were to put it off or try to put it off and there was a lawsuit from a Town resident, there are very, very severe penalties if the Town should loose the lawsuit. Councilman Gunner asked even if the reasons were justifiable. Attorney Kaplowitz said it depends on the judge and everything else. The purpose is to show we are working towards it and that's what the law requires us to do, whether we like it or not, according to Mr. Kaplowitz.

Mr. Lastra said the problem now is, the full disclosure notices are out there that show people as being overassessed. There would be a problem with this if you postpone it, Mr. Lastra said, indicating the property owners would be upset. Mr. Gunner wanted to know if Mr. Lastra can get this all done in the necessary time. Mr. Lastra stated that we would be better off to go with what has been done now and try to work out the problems and he feels it can be done in the allotted time. Mr. Lastra said rather than go back to the old roll -- he said he has lost a lot of small claims this past year and that could compound things. Mr. Gunner wanted to know that if we postponed it and started all over again, would it be a problem because of the implications for the roll. Mr. Lastra agreed.

Mr. Ringler wanted to know how many people have asked for reviews with Finnegan up to this point. Mr. Lastra answered up to yesterday 1600, 14% percent. Mr. Ringler stated that he asked the question for a reason, if you look at the original proposal from Finnegan and he indicated he read that today, this is part of the process, to look for errors and to ultimately come up with the right situation.

Supervisor Ringler said someone faxed an article into him today, and he gave it to the Board now and they haven't seen it

before. He said he wanted to comment on it briefly because we are not in a unique situation in Bethlehem regarding this.

Supervisor Ringler said it is an article from the Rochester Democratic Chronicle Report paper dated March 24, 1992, and its about the Town of Webster. He said you could cross out Webster and put in Bethlehem very easily. We are not in a unique situation, according to Mr. Ringler. They are a town of 12,000 parcels, compared to our 11,000 some. As of this point, they have had 2,300 requests for reviews on the assessment and the comment from the State official who is handling it, and they stated that this is normal. There is nothing unusual about 2,300 or so tax payers who have set up appointments with town officials to discuss the recent reevaluations. Under the ideal circumstances 10 to 15% of the town tax payers are expected to challenge their statements, but if it's an assessment update, it's particularly difficult and a showing of 15 to 20 percent is considered the norm. They are under the same time constraints as the Town of Bethlehem are, Mr. Ringler noted. The system is designed to resolve these problems through this three step appeal process, according to Mr. Ringler.

Councilwomen Galvin asked Mr. Lastra if the delay of the use of homestead, is the attorney at equalization and assessment willing to put it in writing to you and is she sending it to you. Mr. Lastra answered that he didn't ask her to put it in writing but she suggested he talk to other people there, so if she is telling me to speak to other people, he does not think so. The law is obviously vague in so many of these areas, according to Mr. Lastra. Nobody has the answers because there are so many things that have not been done with this before and that's the problem, as he sees it.

Councilwomen Fuller stated she thinks the problem is reval and reval is getting confused with homestead, non homestead. Mrs. Fuller feels most people are concerned with reval.

Mr. Ringler stated we are now in a position where the Board has to make a decision. Prior to entertaining any motions, does anyone have any comments on how they view this.

Councilman Webster commented he is very concerned with the homestead provision due to it transferring the burden not just to the landholders, but also an increase burden on the commercial taxpayers. If for any reason, any major commercial or industrial taxpayers sees its assessments reduced, Mr. Webster feels the burden is going to be on that group and again, its going to increase dramatically. From the stand point of all the good donations made by the commercial business to support our local organizations, charities, children organizations and so forth, he has already seen a reduction in that. Mr. Webster belongs to a volunteer fire company and has seen things where they have been turned down for an up and coming convention for that very purpose. He knows there is the repeal alternative, should the Board desire to do so, however, he does not find any comfort in that, and does not feel he can allow his support to this provision and will be voting no.

Councilwoman Fuller commented she understands this has been a very difficult decision, and a decision we had to reach relatively soon after impact notices have been sent out. In going through a great deal of research and a good study of her conscience, she said she has to say that she has a great deal of sympathy for the agricultural people. She also understands the process they have to go through for the exemption. On the otherside of the coin, she feels that everyone has come in here and has been represented, but she is concerned that the majority of the community has not come in here. She feels for that reason, she is voting in favor of the homestead provision, because she feels she was elected to represent what she feels is the view point of the majority of the people.

Mrs. Fuller does not feel that homestead should have reached the point to which it is an issue today. She feels much of the

issue is strictly reval and the large assessments that the people have been hit with. Hopefully, everyone will go through the process and, hopefully, things will work out much better for them. Mr. Lastra is available after going through to Finnegan and he promised the other night that he would go through and look at each of these situations. Mrs. Fuller said her vote is in favor of the homestead provision.

Councilwoman Galvin said she is voting in favor of the homestead provision. She has given it a lot of thought and consideration. She voted in favor of it for a great number of reasons. Mrs. Galvin recognizes there are a lot of problems with Finnegan's valuations, on many of the vacant land parcels, but she understands that not only will the Finnegan people be looking into it, but so will Mr. Lastra and there is an adequate review process to account to those existing problems. Ms. Galvin said, however, if we do not adopt homestead at this time -- by April 1st -- we will not even be able to give consideration to whether or not to use it. Once the appeal process shakes out, once we get through the point of looking at those valuations, and have a determination as to the accuracy and get the ones that should be corrected, then the Board will be in a better position to make a decision as to the implementation of homestead, she said. First of all, whether or not to use it, whether or not to repeal it, and finally if it is to be used, what percentages are to be implemented when the levy actually takes place, according to Ms. Galvin. As Mr. Lastra indicated today, those are steps which are off in the future. Ms. Galvin indicated if we fail to adopt it today, we will be foreclosing that option. In order to have that option open and in order to let the appeal process and the evaluation of the existing figures that have been put on the parcels by Finnegan, go through the proper steps, she will be voting in favor of homestead so that we have the option.

Councilman Gunner stated he will be voting in favor of homestead, the reason being, that what pretty much the other two people have said are some of his reasons. He wanted to add a few others to it. The majority of the community has not come to the meeting, Mr. Gunner said that is true. He has received many calls and many people have stopped him on the street, and spoke to him about the proportion of the taxation. The problem is really with the assessments, perhaps more so than the act itself. The proportion of the difference in the taxes remains the same as it was before the process, Mr. Gunner stated. He said it was not a welcome stranger, at least one class of that group was involved in. Mr. Gunner felt it would be in the best interest of the community also, because the Town would have the opportunity to take action at another time. The Town could end it next year or end it anytime, he said. If we do not do it, you cannot have it, he said. He felt there could be some foreseeable things that would cause us to wish we did have it. Also, this is the end of the 5th year, he believes, of forming the agricultural districts and we could be in that process in looking to do that to help some of the farmers who may not be in it and want to be in it.

As far as industry and commerce, Mr. Gunner realizes that they will have some more burden to bear -- almost all of the citizens will be sharing that in some form. They will be sharing that when they will use the services, he added. Also, communities outside the Town will be sharing it and therefore, he felt it reasonable to expect them to have the effects of the homestead situation and that is why he is voting in favor of the homestead provision.

Naturally, states Supervisor Ringler, since this discussion began, we all have been giving this issue a great deal of thought and doing a great deal of soul searching. He felt, the Board realizes no matter what decision is made, we will be unpopular in some sectors. We are, however, entrusted with making difficult decisions. He said he knows when they each vote that they will be voting for what they feel as individuals is in the best interest to the community. We heard much discussion regarding the effects of the homestead provision. We heard that

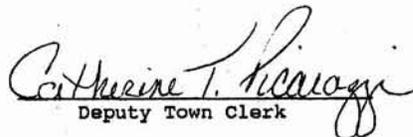
it may help some of our long time residents by easing the burden by reducing their taxes. We heard on the other side, that it might hurt other residents including those in apartments, those on farms, and other taxpayers including business and industry. Mr. Ringler said he has listened to all the arguments and discussions and has done a great deal of research. The issue is very complicated. Mr. Ringler stated when he made his decision he made it based upon a very simple principle. Mr. Ringler stated he would voted no on the homestead proposal. The courts have told the Town of Bethlehem and the law states that our assessments must be equitable. He feels the homestead provision amounts to a legal inequity and based upon that inequity he will vote no.

Mr. Ringler continues, we all have made our comments, we do have to take formal action, he would entertain a motion on the local law. The motion was made Mrs. Galvin and seconded Mrs. Fuller to adopt Local Law No. 2 of 1992 to Adopt the Provisions of the Real Property Tax Law, Section 1903, concerning the Homestead based property proportions. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mrs. Galvin, Mr. Gunner.
Noes: Mr. Ringler, Mr. Webster.

The motion was made by Ms. Galvin and seconded by Mr. Gunner to close the special meeting at 3:40 p.m. The motion was passed by the following vote:

Ayes: Mr. Ringler, Mr. Webster, Mr. Gunner, Ms. Galvin,
Mrs. Fuller.
Noes: None.


Deputy Town Clerk