

**Edward J. Roy and Lois G. Roy**

**v.**

**Town of Charlestown**

**Docket No. 3926-87**

**DECISION**

A hearing in this appeal was held, as scheduled, on November 21, 1990. The Taxpayers were represented by John M. O'Connor, Tax Agent, Marvin F. Poor & Company. The Town was not represented.

The Taxpayers appeal, pursuant to RSA 76:16-a, the assessment of \$532,250 (land, \$62,300; buildings, \$469,950) placed on their real estate located on the west side of Woodrise Road, for the 1987 tax year. The subject property consists of six four-unit apartment buildings and ancillary laundry and other structures. The total number of apartments is 12 one-bedroom units and 12 two-bedroom units.

Neither party challenged the Department of Revenue Administration's equalization ratio of 63 percent for the 1987 tax year for the Town of Charlestown. Based on that ratio the market value of the Taxpayers' assessment equates to \$844,850 as of April 1, 1987.

The Taxpayers' agent argued the subject property was a 24-unit Farmers Home Administration 515 program subsidized project which was built in 1975. Mr. O'Connor stated that this residential rural project was under a financing program which regulated the return on the investor-owner's equity to \$3,920

per year or 8 percent. Mr. O'Connor also testified the project had an interest subsidy reducing an 8 1/2 percent 40-year note to the equivalent of a 1 percent interest level. Mr. O'Connor also testified the property would have to be sold to a non-profit organization in order to continue its subsidy for both the interest as well as the rent subsidy for those amounts over 30 percent of the tenants' income.

The Taxpayers' agent presented a value-assessment analysis (Taxpayers' Exhibit 1) based on the 1985 and 1986 income and expenses for the subject property. Mr. O'Connor's conclusion of market value based solely on the income approach was \$576,000 or \$24,000 per unit as of April 1, 1987.

The Town presented no evidence other than copies of the property assessment record card indicating computations based on the area of the various buildings and the land.

The Board finds the agents for the Taxpayers presented data based on two fiscal years which represent actual operating income and expenses for those years. The Board also finds the Taxpayers' agent presented a pro forma schedule and an indicated fair-market value using the income approach with no other estimates of value in the marketplace.

The Board finds the Town's property assessment record card indicates no recognition of the government-imposed restriction on its use. The Board notes that the owner of a property with government restrictions enjoys other benefits accruing to owners of this specific type of property which enhance value above that derived from a pure income approach. The Board finds that both the Taxpayers and the Town approach the determination of value with separate methods, neither of which was the market data approach.

Based on the evidence before it the Board finds the proper assessment for the subject property is \$431,100 for the 1987 tax year.

If the taxes have been paid, the amount paid on the value in excess of \$431,100 is to be refunded with interest at six percent per annum from date of payment to date of refund.

November 28, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Frederick L. Sewall, Agent, Marvin F. Poer & Company, representing the Taxpayers, and to the Chairman, Board of Selectmen, Town of Charlestown.

November 28, 1990

Michele E. LeBrun, Clerk