

Curtis R. Avery  
v.  
Town of Gilmanton

Docket No. 4420-88

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$73,750 (land, \$10,700; buildings, \$63,050) on property located on Route 107, consisting of a dwelling and garage on 2 acres (the Property). For the reasons stated below, the appeal for abatement is granted.

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). We find the Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because of many unfinished features of the property: no finish flooring; unpainted exterior; roughed-in electricity and plumbing; no fixtures or counter tops in kitchen and bathrooms; unfinished heating system; unconnected water and septic facilities; no finish grading work. Mr. Avery stated the house was only 75 to 80 percent complete compared to the Town's assessment of 90 percent complete.

The Town argued the assessment was proper because they had no justification of the Taxpayer's claim of 75 percent completion and they had

confirmed with their appraiser that the adjustment of 10 percent was appropriate.

Based on the evidence, we find the correct assessment should be \$67,150 (land, \$10,250 and building \$56,900). This assessment is ordered because the evidence and invoices submitted by the Taxpayer indicate that the house was approximately 80 percent complete and that the lot should be adjusted by 5 percent to allow for the final grading.

If the taxes have been paid, the amount paid on the value in excess of \$67,150 shall be refunded with interest at six percent per annum from date paid to refund date.

April 3, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Curtis R. Avery, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Gilmanton.

April 3, 1991

Michele E. LeBrun, Clerk