

**JAL Realty**  
**v.**  
**Town of Jaffrey**

**Docket No. 4662-88**

**DECISION**

The "Taxpayer" appeals the "Town's" 1988 assessment of \$231,650.00 (land \$24,600.00 and building \$207,050.00) on a ten-unit apartment building that is subject to a Farmers Home Administration (FMHA) mortgage (the Property). The assessment results in a per-unit assessment of \$23,165.00 (all units have two bedrooms) or an equalized per-unit assessment of \$32,626.00. The Town failed to appear at the hearing. However, consistent with our rule, TAX 102.03(g), the Town was not defaulted, and our decision is based on the evidence available to us, including the report filed by the board's inspector.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair or disproportionate share of taxes. See RSA 76:16-a; TAX 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 216 (1985). For the reasons stated below, we find the Taxpayer has carried this burden, and thus, the appeal has been granted.

The Taxpayer's Exhibit 1--"Value-Assessment Analysis"-- outlined: a) the limitations and requirements created by the FMHA mortgage; b) the income derived from the Property; and c) the valuation of the Property using the income approach. The Taxpayer also testified about problems with the Property's age, condition and electric heat. Finally, under board questioning, the Taxpayer elaborated on the issues incident to the FMHA mortgage, which testimony included a discussion of whether the FMHA mortgage could be paid off early. This testimony demonstrated the FMHA limitations and requirements affected the Property's value, and the testimony also established would be very

difficult, if even possible, to obtain an early release of the FMHA mortgage.  
The Taxpayer's

evidence, however, also established the FMHA mortgage has two benefits: 1) because of the subsidized rent, the units are easier to rent than market units; and 2) FMHA pays the Taxpayer rent on any vacant units. The limitations created by the FMHA mortgage, however, outweigh the benefits, especially when marketability is considered. However, the board finds the Property's highest and best use is as a FMHA property. Without the FMHA mortgage, the Property would most likely have higher vacancy rates, which would not be reimbursed by any third party, resulting in the Property producing less net income.

The Taxpayer, using the income approach, argued the proper assessment should be \$151,000.00. While the income approach is sometimes helpful in arriving at a valuation, it often fails to accurately reflect a property's full value. This is because the factors used in the income approach are usually narrowly focussed, thereby failing to account for all the value in a property.

In this case, given the board inspectors' report and the benefits of the FMHA mortgage, the income approach, while somewhat helpful, failed to fully reflect the Property's value.

The board's inspector, using a replacement-cost approach, arrived at a value of \$206,700.00. This report concluded the Town only provided 15% physical depreciation when 25% more accurately reflected the Property's condition. The board inspector, however, did not include any adjustment for the effects of the FMHA mortgage.

Valuing property is not a precise science. Rather, it is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 NH 919, 920 (1979). Therefore, given all of the evidence, including the board inspector's report and the evidence concerning the effects of the FMHA mortgage, the correct assessment for 1988 to be \$188,200.00 (land \$24,600.00 and building \$163,600.00). If taxes have been paid, any amount paid on a value in excess of \$188,200.00 shall be refunded with 6% interest from the date paid to the refund date. On the property record card, the Town should also correct the perimeter measurement as discussed above.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Peter J. Donahue, Member

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

Date: January 8, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Marvin F. Poer & Company, representative for JAL Realty, taxpayer; and Chairman, Selectmen of Jaffrey.

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Michele E. LeBrun, Clerk

Date: January 8, 1991

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