

**J & V Enterprises**

**v.**

**Town of Belmont**

**Docket No. 4897-88**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 total assessment of \$394,850 on seven duplex properties on Fox Hill Road, consisting of and further identified as: Map 26, Lot 39-2 - \$54,600 (land, \$7,100; building, \$47,500); Map 26, Lot 39-3 - \$56,600 (land, \$7,100; building, \$49,450); Map 26, Lot 39-4 - \$55,000 (land, \$7,500; building, \$47,500); Map 26, Lot 39-5 - \$57,700 (land, \$7,600; building, \$50,100); Map 26, Lot 39-6 - \$58,450 (land, \$7,650; building, \$50,800); Map 26, Lot 39-8 - \$56,250 (land, \$7,500; building, \$48,750) and Map 26, Lot 39-9 - \$56,250 (land, \$7,500; building, \$48,750) (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 Taxpayers 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 Taxpayers carried this burden and proved it was disproportionally taxed.

The Taxpayer argued the Property was purchased in February of 1986 for \$567,000 and the Property was new when purchased. The Taxpayer argued the indicated market value of the Property, based on the income capitalization approach and the sales comparison approach, was \$665,000, as of April 1, 1988, an average of \$47,500 per unit for the fourteen units of the Property. The Taxpayer presented four comparable properties as substantiation for its opinion of value for the sales comparison approach.

The Town argued the four comparable properties were poor comparables and

that the Property was graded as a three and a half due to its quality.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$for number 2 - \$42,700 (land, \$5,700; building, \$38,000); number 3 - \$45,300 (land, \$5,750; building, \$39,550); number 4 - \$44,000 (land, \$6,000; building, \$38,000); number 5 - \$46,150 (land, \$6,100; building, \$40,050); number 6 - \$46,750 (land, \$6,100; building, \$40,650); number 8 - \$45,000 (land, \$6,000; building, \$39,000) and number 9 - \$45,000 (land, \$6,000; building, \$39,000). This assessment is ordered because the Taxpayers met the burden of proof that it was disproportionately assessed for the tax year 1988.

If the taxes have been paid, the amount paid on the value in excess of \$315,900 shall be refunded with interest at six percent per annum from date paid to refund date.

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: March 27, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Equitax, representative for J & V Enterprises, taxpayer, taxpayer; and the Chairman, Selectmen of Belmont.

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Michele E. LeBrun, Clerk

Date: March 27, 1991

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