

**Felipe A. and Sandra L. Garcia**

**v.**

**Town of Farmington**

**Docket No.: 5898-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$64,150 (land, \$7,500; buildings, \$56,650) on Greenwood Drive, Map R-17, Lot 46 (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayers have 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 disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the house is a "sunlight earth house" with 1/2 story above ground, not 1 1/4 stories as listed;
- (2) there is only one acre of land;
- (3) water runs into the basement during periods of rain and run off from the property

above;

(4) the Property is located on a class VI road; and

(5) the assessment is higher than other properties in the area of similar living space and quality of construction.

Felipe A. and Sandra L. Garcia

v. Town of Farmington

Docket No.: 5898-89

Page 3

The Town argued the assessment was proper because a comparable property, earth-bermed, solar-oriented unit belonging to John and Sandra Cardinal, Map 59 - Lot 31, was used to show consistent treatment of unique property in the Town of Farmington.

### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$51,735 (land, \$7,500; buildings, \$44,235). The board makes a -10% adjustment for an unfinished garage and applies a -30% functional and physical depreciation in the house.

If the taxes have been paid, the amount paid on the value in excess of \$51,735 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

---

George Twigg, III, Chairman

---

Ignatius MacLellan, Esq., Member

### **CERTIFICATION**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Felipe A. and Sandra L. Garcia, Taxpayers; and Chairman, Selectmen of Farmington.

Felipe A. and Sandra L. Garcia

v. Town of Farmington

Docket No.: 5898-89

Page 4

Dated: September 23, 1992

---

Melanie J. Ekstrom, Deputy Clerk

0007