

**Maurice A. Hueber  
v.  
Town of Andover**

**Docket No. 6307-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$50,400 (land, \$17,300; buildings, \$33,100) on Flag Hole Road, 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 disproportionately taxed.

The Taxpayer argued the assessment was excessive because the Property has been rezoned. The buildings are in poor physical condition and several should be torn down. Pole sheds were built with untreated piles and are rotted at the base. The quality of the land is poor, partially wetland.

The Town argued the assessment was proper because the zoning wasn't changed from commercial to residential - the grandfathered privilege was lost.

The Property has always been in a rural - residential zone. The frontage is good, to a lot depth of 300', and some buildings still have utility. The Board finds the best evidence of value to be contained in the report of our review inspector, Mr. J. P. Estey, who inspected the site and viewed the interior of the buildings on May 7, 1991. He added a 70% functional depreciation to all buildings ( $\$33,100 \times .30 = \$9,950$ ). Land value remains the same ( $\$17,300$ ).

Based on the evidence we find the correct assessment should be \$27,250 (land, \$17,300 and building \$9,950).

If the taxes have been paid, the amount paid on the value in excess of \$27,250 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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Ignatius MacLellan, Member, Esq.

Date: August 23, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Mr. Maurice Hueber, taxpayer; and the Chairman, Selectmen of Andover.

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Brenda L. Tibbetts, Clerk

Date: August 23, 1991

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