

**Ronald W. Given**  
**v.**  
**Town of Sanbornton**  
  
**Docket No. 7023-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$83,650 (land, \$24,600; buildings, \$59,050) on his real estate identified as Map 17, Lot 42, consisting of a three-car garage with a two-bedroom apartment overhead, and a barn, on a 5.51-acre lot on Smith Road and Lower Bay Road (the Property). For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing the assessment was disproportionally 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 Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued he was overassessed because:

- 1) the Property has limited market appeal due to the limited utility of the second-floor apartment;
- 2) an appraisal submitted by Equitax estimated the market value at \$123,000; and

3) the Property was listed for \$149,000 in 1989 and sold in January, 1992, for \$100,000.

The Town argued the assessments were proper because:

1) the land has a large amount of frontage and consists of mostly level, fenced pasture land; and

2) the Taxpayer's property is on a paved road approximately one mile from the town beach on Lake Winnisquam.

Based on the evidence, including the board's inspector's report, we find the correct assessment should be \$66,350 (land \$24,600 and buildings \$41,750). This assessment is ordered because:

1) the Property has been developed for a specialized use, thereby limiting its market appeal;

2) the dwelling/garage/apartment replacement cost should be reduced 25 percent for the disutility of the living area being on the second floor (\$26,500); and

3) the barn is of a good, not excellent, wood-frame grade, and by nature of its special use should have received 40 percent functional depreciation (\$15,250); and

4) the Taxpayer's appraisal, listing, and subsequent sale of the Property are considered some evidence of the Property's overassessment.

If the taxes have been paid, the amount paid on the value in excess of \$66,350 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul Franklin

Ignatius MacLellan, Esq.

I certify that copies of the within decision have been mailed this date, postage prepaid, to Equitax, representing the Taxpayer, and to the Chairman, Board of Selectmen, Town of Sanbornton.

March 11, 1992

Melanie J. Ekstrom, Deputy Clerk