

**Edward J. Fellona  
v.  
Town of Tilton**

**Docket No. 7580-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$68,920 (land, \$16,100; buildings, \$52,820) on East Caleff Hill Road (R-14-11) (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 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 disproportionally taxed.

The Taxpayer argued the assessment was excessive because:

- (1)the grade factor of the building was too high compared to others; and
- (2)he felt the comparable properties he selected showed inconsistencies.

The Town argued the assessment was proper because:

- (1)the market peaked in 1988;
- (2)a -10% time adjustment was given for 1989-1990; and
- (3)the building was graded properly compared to other similar property.

Based on the evidence we find the correct total assessment should be \$64,050 (land \$11,230 and building \$52,820). This assessment is ordered because the 1990 revaluation shows the necessity of an adjustment to the land value with

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which the Town concurred owing to an access problem due to topography. Mr. Estey made the following land adjustments:

"Adjusted 1 acre for access

Adjusted 2.44 acres (front acres for topography)

Adjusted all of frontage, except access point, steep gully, swampy brook running through the length, adjusted for swampy acreage."

If the taxes have been paid, the amount paid on the value in excess of \$64,050 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, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Edward J. Fellona, taxpayer; and Chairman, Selectmen of Tilton.

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Valerie B. Lanigan, Clerk

Date: March 25, 1992

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