

**Stuart F. and Sandra S. Ruhl**

**v.**

**Town of Merrimack**

**Docket No.: 7828-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$185,400 (land \$49,600; buildings \$135,800) on a .92-acre lot with a garrison-style house (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' main argument was that the Property was assessed higher than several superior neighboring properties. The Taxpayers submitted exhibits to support this contention.

The Town argued the assessment was proper because:

(1) the Town used 604 known sales from 1987, 1988 and 1989 and time adjusted the sales to January 1, 1989 and, using multiple-regression analysis, arrived at models to be used in assessing the properties in Town; and

(2) the same methodology was used throughout the Town.

The Town responded to the Taxpayers' written submittal by asserting the Taxpayers failed to provide market data to support their appeal.

**Board's Rulings**

Based on the evidence, we find the correct assessment should be \$177,900 (land \$49,600; building \$128,300).

The major difference between the Property and the Taxpayers' comparables were as follows.

<u>Property</u>	<u>Comparables</u>
1,924 s.f. living area	slightly larger
one and one-half baths	two baths
no garage	two-car garage
no deck	deck
oil heat	electric heat

After reviewing the Taxpayers' evidence and the Town's comparables, we agree with the Taxpayers that some adjustment is warranted. However, we reject the Taxpayers' requested adjustment of -\$25,000, which was not supported by any market data. We have, therefore, made a conservative adjustment of -\$7,500 to the building.

If the taxes have been paid, the amount paid on the value in excess of \$177,900 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

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

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**CERTIFICATION**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Stuart F. and Sandra S. Ruhl, Taxpayers; and Office of the Assessor of Merrimack.

Dated:

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Valerie B. Lanigan, Clerk

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