

**Dorothy M. Stone**

**v.**

**Town of Merrimack**

**Docket No.: 7836-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$158,100 (land \$73,500; buildings \$84,600) on a 3.691-acre lot with an old-style house (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 disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property has some marketability problems, e.g., the building was being renovated, the building is close to the road, and there is only one bathroom, two bedrooms, and no upstairs heat;
- (2) the carriage house is 200 years old and in the right-of-way;
- (3) the lot is unlevel, has a drainage swale, erosion problems and a cesspool, much of the lot is under water year round, and the Property is not

subdividable;

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- (5) comparable properties were assessed much lower;
- (6) a November, 1989 appraisal estimated a \$129,500 value; and
- (6) the assessed value should be \$129,500.

The Town argued the assessment was proper because:

- (1) the multiple-regression analysis was not used because the house was under construction;
- (2) the construction was reflected in the assessment, and the building was rated as grade B;
- (3) the Taxpayer's "appraisal" was only an opinion of value because it was not specific enough;
- (4) the topography pertains only to the house site, not to the backland;
- (5) this Property is in one of the better areas of Town.

#### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$144,445 (land \$59,345; building \$85,100). The board recalculated the land as follows.

1 acre x \$60,000 x .9 for proximity to road = \$54,000

1 acre x \$5,000 x .9 for topography = \$4,500

1.69 acres x \$500 for wetlands = \$845

Total land assessment = \$59,345.

Based on the comparables in the Town, the board does not accept the Taxpayer's appraisal of \$129,500. This Property certainly was worth more than \$129,500.

If the taxes have been paid, the amount paid on the value in excess of \$144,445 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Dorothy Stone, Taxpayer; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk

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