

Walter E. and Marjorie J. Johnston

v.

Town of Merrimack

Docket No.: 7857-89

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$85,300 (land \$21,100; buildings \$64,200) on Map 4D-3, Lot 016-003, a 1.56-acre lot with a warehouse condominium (the Property). The Taxpayers own, but did not appeal, several other properties in the Town of Merrimack. For the reasons stated below, the appeal for abatement is denied.

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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

(1) they own three other industrial condominiums in this complex with lower assessments (\$74,100 each) and the only difference between those units and the Property is the Property has 120 square feet more finished office space; and  
(2) other units with more finished space than the Property had lower assessments.

The Town argued there was 140 additional square feet of office space and, the assessment on this space was proper because the additional office space was assessed using the income approach, resulting in \$11,200 of value. The Town stated it remeasured the Property's total office space and found it to be 480 square feet. The Town also stated all units were being assessed using the same methodology, and any other units that had more office space but were not assessed as such were assessed erroneously.

**Board's Rulings**

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The burden of proof is upon the Taxpayer to show the assessment was in error. Based on the Town's evidence concerning its reinspection and remeasurement of the Property, we find the Taxpayers failed to carry their burden. Additionally, the Taxpayers did not want the board to consider the bathroom in the office's square footage, but the Town indicated it had done so in every other unit. Finally, the Taxpayers may be correct that the additional finished office does not add \$11,200 of value, but unfortunately, it is the Taxpayers' burden to show this is the case.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Walter E. and Marjorie J. Johnston, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk

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