

Robert L. Roy, Docket No.: 17479-97PT
Michael L. and Cynthia A. Hill, Docket No.: 17500-97PT
Herbert T. Ueda, Jr., Docket No.: 17556-97PT
Doris Petzack, Docket No.: 17559-97PT
Roy and Alice Kent, Docket No.: 17560-97PT
Gregory J. and Rebecca B. Walker, Docket No.: 17561-97PT
Christine M. and Bryan E. Goodwin, Docket No.: 17562-97PT
John M. and Joyce M. O'Day, Docket No.: 17563-97PT
Patrick K. and Judith H. Parks, Docket No.: 17564-97PT
Charles E. and Patricia C. Strogon, Docket No.: 17565-97PT
Frances Johnson, Docket No.: 17566-97PT
Robert Howard and Bea Morris, Docket No.: 17568-7PT
William S. and Nancy P. Danford, Docket No.: 17569-97PT
Charles B. and Virginia D. Soucy, Docket No.: 17570-97PT
Clyde and Patricia Coolidge, Docket No.: 17571-97PT
William E. and Virginia K. Hassett, Docket No.: 17582-97PT
Creighton T. and Dorothy Morford, Docket No.: 17583-97PT
Richard P. and Shelley C. Levy, Docket No.: 17585-97PT
David A. and Dianne C. Ness, Docket No.: 17588-97PT
Jeffrey V. and Mary R. Herring, Docket No.: 17589-97PT
Mark J. and Maureen C. Geppert, Docket No.: 17618-97PT

v.

Town of Rollinsford

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1997 assessments on the following "Properties" which were consolidated for hearing:

Name	Map/Lot	Description	Land Assessment	Building Assessment	Total Assessment
“Roy”	4/37-3	Contemporary on a 2.01-acre lot	\$102,000	\$204,400	\$306,400
“Hill”	4/37-25	Colonial on 2.55-acre lot	\$103,100	\$213,300	\$316,400
“Ueda, Jr.”	4/37-1	Cape on 2.0-acre lot	\$102,000	\$134,900	\$236,900
“Petzack”	4/37-6	Ranch on 2.01-acre lot	\$102,000	\$157,700	\$259,700
“Kent”	4/37-19	Ranch on 2.47-acre lot	\$102,900	\$202,500	\$305,400
“Walker”	4/37-15	Colonial on 2.25-acre lot	\$102,500	\$217,900	\$320,400
“Goodwin”	4/37-27	Contemporary on 2.11-acre lot	\$102,200	\$145,800	\$248,000
“O'Day”	4/37-33	Garrison on 2.01-acre lot	\$102,000	\$345,100	\$447,100
“Parks”	4/37-23	Contemporary on 2.25-acre lot	\$102,500	\$178,300	\$280,800
	4/37-22	2.24-acre lot	\$ 82,100		\$ 82,100
“Strogen”	4/37-26	Ranch on 2.39-acre lot	\$102,800	\$181,500	\$284,300
	21/9-0 (not appealed)	4.77-acre lot	\$ 7,500		\$ 7,500
“Johnson”	4/37-5	Cape on 2.0-acre lot	\$102,000	\$187,000	\$289,000
“Howard/	4/37-29	Colonial on	\$102,300	\$132,600	\$234,900

Name	Map/Lot	Description	Land Assessment	Building Assessment	Total Assessment
Morris”		2.14-acre lot			
“Danford”	4/37-7	Colonial on 2.0-acre lot	\$102,000	\$312,800	\$414,800
“Soucy”	4/37-34	Colonial on 2.11-acre lot	\$102,200	\$171,700	\$273,900
“Coolidge”	4/37-17	Ranch on 2.35-acre lot	\$102,700	\$191,300	\$294,000
	4/37-18	2.45-acre lot	\$ 82,500		\$ 82,500
“Hassett”	4/37-28	Cape on 2.12-acre lot	\$102,200	\$199,200	\$301,400
“Morford”	4/37-8	Cape on 2.0-acre lot	\$102,000	\$152,000	\$254,000
“Levy”	4/37-20	Colonial on 2.48-acre lot	\$103,000	\$182,400	\$285,400
“Ness”	4/37-32	Colonial on 2.25-acre lot	\$102,500	\$175,600	\$278,100
“Herring”	4/37-2	Cape on 2.0-acre lot	\$102,000	\$123,500	\$225,500
“Geppert”	4/37-16	Colonial on 2.01-acre lot	\$102,000	\$185,700	\$287,700

For the reasons stated below, the appeals for abatement are granted in part and denied in part as detailed in the board’s rulings below.

The Taxpayers have the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayers paying a disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show that the Properties’ assessments were higher than

the general level of assessment in the municipality. Id.

The Taxpayers argued the assessments were excessive because:

- (1) there is disparity in the assessed values of homes in the “Woodlands” when compared to all other single-family properties in the Town;
- (2) sales evidence of all arm's-length sales in 1997 and 1998 of single-family homes in the Town shows the disproportionality when compared to the four sales in the Woodlands during the same time period;
- (3) the Town has used a multiplier of 3.0 in assessing the land values of the Woodlands property and no other property in the Town has a 3.0 multiplier;
- (4) from 1987 through 1995 the average purchase price for a lot in the Woodlands was \$67,653; and
- (5) the assessments in the Woodlands should be dropped by 15.6% to be proportionately assessed.

The Town argued the assessments were proper because:

- (1) in performing the reassessment, the Town reviewed sales from January 1995 through September 1997; of 57 sales used, the results indicated a mean of 103%, median of 102% and coefficient of dispersion (COD) of 5.13; the land only sampling indicated a mean of 100%, median of 100% and COD of 7.7; these results along with the department of revenue administration's (DRA) equalization ratio studies suggest the Town is equitably assessed as a whole and as an average;

- (2) when it has been called to the Town's attention that an assessment may be too low, the Town has reviewed the property in question and made appropriate adjustments to the assessment;
- (3) a comparison of the sales data in the Woodlands shows the Properties are assessed at or near market value; and
- (4) most of the Taxpayers agreed they are assessed at or near market value and they have not carried their burden to support disproportionality.

Board's Rulings

In arriving at its conclusions, the board separately addressed the two arguments raised by the Taxpayers: 1) assessment disproportionality between the Properties in the Woodlands compared to all other single family homes in the Town; and 2) several of the Properties were overassessed in comparison to their property's market value.

Assessment Disproportionality

The Taxpayers' main argument was that the Properties in the Woodlands were, as a whole, disproportionately assessed when compared to the sales of all other single-family residences in the Town. The Taxpayers submitted a list of 37 sales which occurred in 1997 and 1998 and performed a sales-to-assessment analysis (adjusted for time based on the DRA's 1997 and 1998 equalization ratios) and compared this analysis to an analysis of four sales in the Woodlands which sold in 1997 and 1998. Based on their findings, the Taxpayers stated there was a 15.6% disparity between the assessments of the Woodlands and the assessments of all

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other single-family homes in the Town.

The Taxpayers further argued that the Town assessed the land value at a greater rate than all other properties in Town, assigning a multiplier of 3.0 to the unit price for its neighborhood. The Taxpayers argued the Town did not use a multiplier of 3.0 on any other property in Town. Further, the Taxpayers argued the average selling price of the lots from 1987 through 1995 was \$67,653 which supported their claim the Town overassessed the land portion of the assessments.

The board finds the Taxpayers' analysis is inconclusive for the following reasons. First, the Taxpayers performed a sales-to-assessment analysis (i.e. divided the sale price by the assessment). To be consistent with and as a check of the equalization ratio, an assessment-to-sales analysis (i.e. assessment divided by the sales price) is a more appropriate method to see if sales are in line with assessments. This step is easily curable and the board has calculated the assessment-to-sales ratios for the sales data submitted by the Taxpayers (i.e. White property; $\$66,900 \text{ assessment} \div \$68,000 \text{ sale price} = 98\%$).

Second, the list analyzes sales in 1997 and 1998. The date of assessment for these Properties is April 1997. An analysis of sales is helpful for trending purposes; however, the Town's assessments are based on a review of sales from January 1995 through September 1997 and the DRA ratio survey used market sales between October 1, 1996 and September 30, 1997 to arrive at the 98% equalization ratio. Taxpayers' Exhibit 4 attempts to time adjust the sales by trending them based on the 1997 and 1998 equalization ratios. It is more appropriate to use sales

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that took place closer to the date of assessment to determine if there is disproportionality for the

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1997 tax year. Therefore, the board has reviewed the 1997 sales data provided by the Taxpayers.

Excluding property in the Woodlands, there were 17 sales that occurred in 1997. The board performed an assessment-to-sales analysis on these 17 sales which indicated an average ratio of 96.7%. Adding in the two 1997 Woodlands' sales indicates an average ratio of 97.9%. The equalization ratio for the Town for the 1997 tax year was 98%. The board finds this analysis is a good indication of assessment equity in the Town for the 1997 tax year.

The board finds the Taxpayers' arguments regarding the lot values to be without merit. First, to arrive at a value as of April 1997, a review of recent sales of lots would be a better indicator of value. The Taxpayers' merely presented a list of purchase prices of the lots beginning ten years prior to the date of assessment. The market has changed over the last ten years, the available lots decreased as the development grew and purchasers were willing to pay a premium to get into the development. Mr. Roy testified that he was outbid on one of the two remaining lots. After Ms. Ledlow purchased Lot 3 for \$90,000, he immediately offered her \$10,000 more to buy the lot. Further, Taxpayers' Exhibit 1 labeled Exhibit 3 does not show the history of the lots (i.e. Lot 3 sold March 1988 for \$55,000, February 1990 for \$60,000, May 1995 for \$90,000, and July 1995 for \$100,000). The exhibit only listed the most recent sale of each lot. It is quite clear from the sales history that these lots were in demand and were

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commanding a high value. Further, almost all the Properties under appeal were developed. The supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). The existing assessment

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process allocates the total value between land value and building value. The Taxpayers argued the Town's application of a 3.0 condition factor was too high; however, if the condition factor of 3.0 is applied to the base value of the lot and the resulting total value (land and building) is at market value, when equalized, then there is no basis for adjusting the assessment.

In deciding these appeals, the board must be guided by the New Hampshire Constitution, the New Hampshire statutes and New Hampshire caselaw.

Under the New Hampshire Constitution, citizens are required to contribute their share of governmental costs. N.H. Const., pt. 1, art. 12. Such contributions (i.e., taxes) must be “proportional and reasonable [in] assessments, rates, and taxes ***.” N.H. Const., pt. 2, art. 5.

In Appeal of Andrews, 136 N.H. 61, 64 (1992), the court held that the above-cited constitutional provisions require that all taxpayers in a town must be assessed at the same proportion of market value. Moreover, the court stated that to establish disproportionality, a taxpayer must show that its assessment was higher than the general level of assessment in the town. The court made it clear that proportionality was to be judged across the entire town rather than only by property type. Therefore, to comply with the constitutional obligation of

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proportional assessment, municipalities are obligated to ensure that properties are assessed at the same general level of assessment prevailing throughout the town. To the extent the Taxpayers presented evidence which indicated certain properties may have been underassessed, the underassessment of other properties does not prove the overassessment of the Taxpayers' Properties. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to

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reduce the Taxpayers' assessments because of the possible underassessment on other properties would be analogous to a weights and measures inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. Thus, a taxpayer does not show disproportionality that would qualify for an abatement by showing a certain segment of property was assessed below the general level of assessment. Abatements are only granted when property is assessed disproportionately high because such an assessment results in a taxpayer paying more than its share of taxes. The courts have held that in measuring tax burden, which is really what an abatement case is about, market value and the general level of assessment in the community are the proper yardsticks to determine proportionality, not just a comparison to other similar properties. E.g., id. In such a situation, the remedy would be for the Town to correct the assessments on the underassessed properties. Both the Taxpayers and the Town stated that once it was brought to the Town's attention, the Town reviewed and did correct those properties that required adjustments.

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RSA 75:1 requires that property be assessed at market value, and the cases cited above indicate that assessments may be a proportion of market value as long as all assessments are at the same level of market value. Additionally, RSA 75:8 requires municipalities to annually review assessments and to make any adjustments that are necessary to correctly assess properties. As stated in paragraph 1 on page 3, to establish disproportionality the Taxpayers must show that the appealed properties' assessments were higher than the general level of assessment

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in the municipality. Appeal of City of Nashua, 138 N.H. at 265. The Taxpayers did not carry this burden. In fact, the Taxpayers' testimony was, in most cases, the assessments of the Properties, when equalized, were indicative of their market values. Therefore, the board finds no basis exists to grant abatements based on this argument.

Overassessment

The Town performed a review analysis (Municipality Exhibit A) ("Analysis") of the six comparable properties in the Woodlands which took place between May 1995 through July 1998. The board has based its conclusions by thoroughly reviewing the testimony, the sales evidence, the photographs, and all other evidence submitted by the parties. The board also reviewed the assessment-record cards and in reaching its conclusions considered the size and quality of the homes; and carefully considered the evidence of the individual Taxpayers who testified to the marketing and subsequent purchase of their homes and the considerations made at

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the time of purchase. The board generally concurred with the Town's Analysis; however, it should be noted that the board does not necessarily agree with all the adjustments or conclusions made by the Town.

Properties failing to prove disproportionality

Based on the evidence, the board finds the following Taxpayers failed to prove their properties were disproportionately assessed:

Roy - Docket No. 17479-97PT

Hill - Docket No. 17500-97PT

Kent - Docket No. 17560-97PT

Walker - Docket No. 17561-97PT

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Parks - Docket No. 17564-97PT

Strogen - Docket No. 17565-97PT

Johnson - Docket No. 17566-97PT

Danford - Docket No. 17569-97PT

Soucy - Docket No. 17570-97PT

Coolidge - Docket No. 17571-97PT

Hassett - Docket No. 17582-97PT

Levy - Docket No. 17585-97PT

Ness - Docket No. 17588-97PT

Geppert - Docket No. 17618-97PT

for the reasons set forth below.

■ The Kent property was purchased in November 1996 for \$309,000 and its gross living area is 3,939 square feet. The assessment on this property is \$305,400 which indicates an assessment-to-sales ratio of 99% ($\$305,400 \div \$309,000 = 99\%$). The board finds this property is properly assessed and no abatement is warranted.

■ The Walker property was purchased in June 1997 for \$327,000 and its gross living

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area is 3,936 square feet. The assessment on this property is \$320,400 which indicates an assessment-to-sales ratio of 98% ($\$320,400 \div \$327,000 = 98\%$). The board finds this property is properly assessed and no abatement is warranted.

■ The Hassett property was purchased in May 1995 for \$311,900 and its gross living area is 4,087 square feet. The assessment on this property is \$301,400. This sale occurred two years prior to the date of assessment; however, it is of similar size to the Kent and Walker properties and the quality grade (A2) appears reasonable and is consistent with the Kent grade.

The board

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finds the assessment, when compared to these two sales and considering the sale price two years prior is reasonable; therefore, no abatement is warranted.

■ With respect to the Roy and Coolidge properties, the board concurs with the Town's Analysis finding the Hassett property (#5), with adjustments, to be the best comparable in terms of gross living area, age and quality of the homes. The Roy assessment, when equalized by the 98% ratio suggests a market value of \$312,700 (rounded) and the Coolidge property when equalized suggests a market value of \$300,000. The board finds both assessments are reasonable and no abatements are warranted.

■ With respect to the Hill property, the board concurs with the Town's Analysis finding

the Walker (#2) property, with adjustments, to be the best comparable in terms of age and quality of the home. The assessment, when equalized by the 98% ratio, suggests a market value of \$323,000 (rounded). The board finds no abatement is warranted.

■ With respect to the Parks and Strogon properties, the board generally concurs with the Town's Analysis but finds the Hassett (#5) property to be the most comparable, when adjusted for time, age and size of the property. The Parks assessment, when equalized by the 98% ratio suggests a market value of \$286,500 (rounded) and the Strogon assessment, when equalized, suggests a market value of \$290,000 (rounded). The board finds both assessments are reasonable and no abatements are warranted.

■ With respect to the Johnson and Ness properties, the board concurs with the Town's Analysis finding the Kent (#3) and Hassett (#5) properties, when adjusted, to be the best

comparables in terms of age, quality and size of the homes. The Johnson assessment, when equalized by the 98% ratio, suggests a market value of \$295,000 (rounded) and the Ness property, when equalized, suggests a market value of \$356,500 (rounded). The board finds both assessments are reasonable and no abatements are warranted.

■ With respect to the Danford and Soucy properties, the board concurs with the Town's Analysis finding the Walker (#2) property to be the most comparable, when adjusted for age, size and quality of the homes with a grade adjustment for the quality of the Danford home. The Danford assessment, when equalized by the 98% ratio, suggests a market value of \$423,300

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(rounded) and the Soucy assessment, when equalized, suggests a market value of \$279,500 (rounded). The board finds both assessments are reasonable and no abatements are warranted.

■ With respect to the Levy and Geppert properties, the board generally concurs with the Town's Analysis finding the Kent (#3) property, when adjusted, to be the best comparable in terms of age, size and quality of the homes with a grade adjustment for the Levy's lesser quality home. The Levy assessment, when equalized by the 98% ratio, suggests a market value of \$291,200 (rounded) and the Geppert assessment, when equalized, suggests a market value of \$293,600. The board finds both assessments are reasonable and no abatements are warranted.

A thorough review of the evidence, specifically the sales data, supports the indicated assessed values of these properties; further, the Taxpayers' representative, Mr. Hill, stated a majority of the properties in the Woodlands are close to market value. Therefore, the board finds no evidence was submitted to justify abatements on these properties.

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Properties warranting abatements

There were six sales that occurred in the Woodlands between May 1995 and July 1998. These sales are discussed below.

The Hassett property sold for \$311,900 in May 1995 and a time adjustment is warranted to reflect the property's value as of the date of assessment, April 1997. The board finds the Town's 4% per year adjustment is reasonable and the Taxpayers appeared to agree with this

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number also. This indicates an adjusted sale price of \$336,900 as of April 1997. The board finds the A2 quality adjustment applied by the Town is consistent with similar properties.

The Kent property was purchased in November 1996 for \$309,000. As stated above, the assessment-to-sales ratio on this property is 99% which supports the Town's assessment and the quality adjustment of A2.

Mrs. Goodwin testified that her property had been on the market for over two years, had originally been listed at \$260,000 and was purchased for \$210,000 in May 1997. While this is some evidence of the Property's market value, it is not necessarily conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). However, where it is demonstrated that the sale was an arm's-length market sale, the sales price is one of the "best indicators of the property's value." Appeal of Lakeshore Estates, 130 N.H. 504, 508 (1988). This property has a less desirable layout than the sales which may be one reason why it was on the market for such a long time. The Town has assigned a quality adjustment of A1 which the board finds is proper.

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Based on a review of the other sales and the testimony, the board finds a market value of \$215,000 is reasonable as of April, 1997.

The Walker property was purchased in June 1997 for \$327,000. As stated above, the assessment-to-sales ratio on this property is 98% which supports the Town's assessment and the quality adjustment of A3.

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Mr. Herring testified that his property had been listed for 1-1/2 to 2 months at \$209,900 and that he moved from out of state. The property was purchased for \$210,000 in May 1998 and appears, based on the sales data, to have been listed very low to sell quickly as evidenced by the Howard/Morris sale of a similarly sized and quality property which sold in July 1998 for \$230,000.

The board finds the assessments of Ueda, Petzack, Goodwin, O'Day, Howard/Morris, Morford and Herring warrant abatements as detailed below.

■ Ueda - Docket No. 17556-97PT - \$230,300: The board generally concurs with the Town's Analysis and finds comparable #6 (Howard/Morris), when adjusted, indicates a market value of \$235,000 which, when equalized by the 1997 ratio of 98% indicates an assessed value of \$230,300 ($\$235,000 \times .98$). Although this property is slightly smaller in gross living area, it is of a higher quality than the comparable which the board finds is an offsetting factor. During his testimony, Mr. Ueda referred the board to an April 1993 appraisal submitted with his appeal. The board finds this appraisal to be of little value because: 1) it was prepared four years prior to the date of assessment using comparable sales which occurred between October 1992 and March

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1993 which are of little value when more recent comparable sales data is available to review; 2) the appraiser estimated a site value of \$28,000 in his cost approach which the evidence has shown is extremely low; and 3) the board has no evidence of how the market changed from 1993 to 1995. Mr Ueda also noted that the area above his garage is storage only which warrants an

adjustment. In making its decision, the board has looked at the property as a whole and determined a market value based on a review of the comparable sales as discussed elsewhere in this decision. However, the board does find that the Town's methodology of applying a 25% effective area to account for this area is appropriate.

■ Petzack - Docket No. 17559-97PT - \$230,300: The board generally concurs with the Town's Analysis and finds the most comparable sales to be #4 (Goodwin) and #6 (Howard/Morris) and finds a market value of \$235,000 is appropriate which, when equalized by the 1997 ratio of 98% indicates an assessed value of \$230,300 ($\$235,000 \times .98$).

■ Goodwin - Docket No. 17562-97PT - \$210,700: As stated above, the board finds the property's less desirable layout may be a factor in its long listing period. However, the board agrees with the Town that had the property been more aggressively marketed, it could have sold for more. The board finds, based on a review of all the data, that comparables #1 (Herring) and #6 (Howard/Morris) are the most comparable along with consideration of the sale of the subject, and a market value of \$215,000 is reasonable which, when equalized by the 1997 ratio of 98%, indicates an assessed value of \$210,700.

■ O'Day - Docket No. 17563-97PT - \$424,700: This property is graded A4 and is significantly larger than any of the other properties. No evidence of market value was submitted

to conclude the assessment was too high. A comparison of the six sales, all significantly smaller and of lesser quality (A1 through A3) was futile. However, based on a review of the assessment-

record card and all of the evidence, the board finds a size adjustment is appropriate and has assigned a nominal 5% adjustment based on its experience and judgment¹.

■ Howard/Morris - Docket No. 17568-97PT - \$215,600: The board generally concurs with the Town's Analysis and finds the most comparable sales to be #1 (Herring) and the sale of the subject and finds the market value to be \$220,000 which, when equalized by the 1997 ratio of 98% indicates an assessed value of \$215,600 ($\$220,000 \times .98$).

■ Morford - Docket No. 17583-97PT - \$230,300: The board generally concurs with the Town's Analysis and finds the most comparable sales to be #4 (Goodwin) and #6 (Howard/Morris) and finds the market value to be \$235,000 which, when equalized by the 1997 ratio of 98%, indicates an assessed value of \$230,300 ($\$235,000 \times .98$).

■ Herring - Docket 17589-97PT - \$215,600: As stated above, the board finds the listing price of this property to be low based on a review of the sales (specifically sale #6 (Howard/Morris)) and finds a market value of \$220,000 to be reasonable which, when equalized by the 1997 ratio of 98%, indicates an assessed value of \$215,600 ($\$220,000 \times .98$).

¹ The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:33 VI; Appeal of Nashua, 138 N.H. 261, 264-65 (1994); see also Petition of Grimm, 138 N.H. 42, 53 (1993) (administrative board may use expertise and experience to evaluate evidence).

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Again, it should be noted that the board does not agree with all of the assumptions or adjustments made by the Town in its Analysis but has specifically looked to all the evidence in

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making its decision. As stated above, the focus of our inquiry is proportionality, requiring a review of the assessments to determine whether the Properties are assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. 214, 219 (1985); Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979). The board has made every attempt to insure that all the appealed Properties have been properly reviewed and fairly and reasonably assessed.

As stated earlier in this decision, in making its decision on values, the board looks at the Properties values as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). However, the existing assessment process allocates the total value between land value and building value. The board has not allocated the values between land and building, and the Town shall make these allocations in accordance with its assessing practices.

Other issues raised

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The Taxpayers further argued that their taxes had increased significantly more than others in Town. Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985). A greater percentage increase in an

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assessment following a town-wide reassessment is not a ground for an abatement because unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

The Taxpayers further argued they were in a development and did not receive the same services as other properties in Town. Lack of municipal services is not necessarily evidence of disproportionality. The basis of assessing property is market value. See RSA 75:1. Any effect on value due to lack of municipal services would be reflected in the selling prices of comparables and consequently in the resulting assessments. See Barksdale v. Epping, 136 N.H. 511, 514 (1992).

If the taxes have been paid, the amounts paid on the values in excess of the following:

Ueda - \$230,300
Petzack - \$230,300
Goodwin - \$210,700
O'Day - \$424,700
Howard/Morris - \$215,600

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Morford - \$230,300

Herring - \$215,600

shall be refunded with interest at six percent per annum from date paid to refund date. RSA

76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, unless the Town has

undergone a general reassessment, the Town shall also refund any overpayments for 1998. Until

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the Town undergoes a general reassessment, the Town shall use the ordered assessments for

subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

Appeal

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Member

Douglas S. Ricard, Member

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Certification

I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to Clyde R. Coolidge, Representative for the Taxpayers; and Chairman, Board of Selectmen of Rollinsford.

Date: July 26, 1999

Lynn M. Wheeler, Clerk

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