---

**TAX - NEW HAMPSHIRE**

## Merrimack Premium Outlets, LLC v. Town of Merrimack

**Supreme Court of New Hampshire - October 1, 2021 - A.3d - 2021 WL 4487259**

Property owner and operator of retail outlet shopping mall, which leased property, brought action against town for declaratory judgment and injunctive relief challenging town's reassessment of taxable property.

The Superior Court granted town's motion to dismiss complaint for failure to state claim, to extent that it sought declaratory relief on basis that town lacked authority to change assessed value of property, and dismissed constitutional claim with prejudice as discovery sanction, and subsequently denied plaintiffs' motion for reconsideration. Parties cross-appealed.

Holdings: The Supreme Court, Hicks, J., held that:

- Some "change" is a prerequisite to a municipality's legal authority to adjust a property's tax assessment under provision of statute which directs assessors and selectmen to annually adjust assessments to reflect changes;
- Extreme underassessment of property was not "change" that would allow town to adjust assessment the following year; and
- Reassessment of value of property was not necessary to ensure proportionality required by statute or state Constitution.

Town's extreme underassessment of property on which retail outlet shopping mall was operated was not "change" that would allow town to adjust assessment under provision of statute which directed assessors and selectmen to annually adjust assessments to reflect changes; statute governing how property was appraised required assessors and selectmen to appraise all taxable property, other than certain types of property specifically excepted, "at its market value," meaning property's full and true value as the same would be appraised in payment of a just debt from a solvent debtor, and town's acquisition of information bearing on property's value, in connection with property's use as collateral for loan, was not change in value itself.

Reassessment of value of property on which retail outlet shopping mall was operated to correct extreme underassessment of property the previous year was not necessary to ensure proportionality required by statute governing adjustment of assessments and state Constitution; under statute's plain language, annual adjustment so that all assessments were reasonably proportional within municipality had to occur "to reflect changes," and underassessment did not qualify as "change," current statutory scheme sought to ensure proportionality through municipality-wide reappraisals at least every five years and annual adjustments to assessments of properties that had changed in value, and town did not raise developed claim that statutory scheme violated Constitution.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com