

**Robert Christie and Missy Christie**

**v.**

**Town of Pembroke**

**Docket No. 5440-88**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$103,950 (land, \$50,450; buildings, \$53,500) on property located at 331 Church Road. 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 they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because access over the existing stairs to the second floor is hazardous, their occupancy permit is at issue, they have a suit in Superior Court against the builder, and furthermore, they allege that the building has no value owing to the major structural changes which would be necessary to cure the problems they described.

The Towns appraiser, Mr. Donald Dollard, argued the assessment was proper because the Town had made proper adjustments with a 3% physical and a 15% functional depreciation for the Taxpayer's complaints. Further, the Town made reference to three abutting properties (identical) that were built by the same contractor who put up the subject house.

Based on the evidence, we find the correct assessment should be \$91,350 (land, \$50,450 and building, \$40,900). This assessment is ordered because the Board of Tax and Land Appeals finds an additional 20% factor for functional depreciation should be added to the Town's 15% (Total 35%).

If the taxes have been paid, the amount paid on the value in excess of \$91,350 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

Date: April 5, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Robert & Missy Christie, taxpayer; and the Chairman, Selectmen of Pembroke.

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Michele E. LeBrun, Clerk

Date: April 5, 1991

0009