

**Donald O. Nylander and Barbara G. Nylander
v.
Town of Hancock**

Docket No. 5643-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$71,542 (land, \$21,942; buildings, \$49,600) on 18 acres (16 acres in current use) and a house (built over 200 years ago) and outbuildings (the Property). For the reasons stated below, the appeal for abatement is granted. (The Taxpayers also owned another tract in current use with an assessment of \$380. No evidence was presented on this other lot.)

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). While the Taxpayers did not show the assessment overall was in error, we find two errors must be corrected.

The Taxpayers argued the assessment was excessive because the house was in need of substantial work, lacked indoor utilities (e.g., no electricity or inside toilet), and had an excessive amount of square feet for a dwelling.

The Town argued the assessment was proper because the problem with the house had been considered and resulted in a 50 percent depreciation on the

building. Also, no value had been added for utilities, since there were no utilities. The Town, however, admitted adjustments were needed for: (A) the \$1,600 assessed for a fireplace; and (B) the current use calculation. Based on this: (A) the fireplace assessment has been reduced to \$800; and (B) the land value has been reduced to \$20,042, reflecting a \$1,900 reduction to the current-use land.

Based on the evidence, we find the correct assessment should be \$68,842 (land \$20,042 and building \$48,800).

If the taxes have been paid, the amount paid on the value in excess of \$68,842 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

June 19, 1991

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin

Ignatius MacLellan

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Donald O. and Barbara G. Nylander, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Hancock.

June 19, 1991

Melanie J. Ekstrom, Deputy Clerk