

Sherryland Park, Inc.

v.

Town of Tilton

Docket No. 4510-88

DECISION

A hearing in this appeal was held, as scheduled, on March 28, 1990. The Taxpayer was represented by George Hast, President. The Town was represented by George B. Ballister, Assessor, John L. McCarthy, Chairman, Board of Selectmen, Jim Dodge, Member of the Planning Board and Betty Perci, Town Administrator.

The Taxpayer appeals, pursuant to RSA 72:7-a, the assessment of \$26,355 placed on 1 Sherryland, and \$15,535 placed on 27 Sherryland for the 1988 tax year. The Taxpayer's total property consists of a mobile home park and Taxpayer owned mobile homes, for a grant total of \$224,990.

The Taxpayer argued the two appealed mobile homes were stock in trade until their transfer in the instance of 1 Sherryland on June 24, 1988, to Tessier, and in the instance of 27 Sherryland on November 11, 1988, to Dustin.

The Taxpayer argued the two subject mobile homes were vacant until their sale and were not habitable having only electric utilities in place. The Taxpayer argued the sale of the two mobile homes was the initial sale from the Taxpayer as a dealer or agent. Mr. Hast stated that the two subject mobile homes were financed on a floor plan basis until their sale. Mr. Hast stated that the

policy of floor plan lending does not allow any other use of the collateral than for display for sale.

Mr. McCarthy inquired of the Taxpayer for the Town. Mr. Hast testified in response to the inquiries that there were 35 sites at Sherryland and 34 were occupied. Mr. Hast also testified the park rented older mobile homes and did not sell those older rentals in place at the park. The Taxpayer stated Sherryland owned ten rental units and the balance were owner occupied.

Mr. Ballister testified for the Town that the subject mobile homes were completely set up, as of April 1, 1988. The Assessor acknowledged he was not sure if all of the utilities were hooked up on that date, but he pointed out that the two subject mobile homes were set up on the sites where they were to remain in the Sherryland Park.

Mr. Ballister observed that the particular zone occupied by Sherryland Park required building permits to place mobile homes in the park.

Mr. Dodge testified for the Town that a dealer holding mobile homes for resale and parking them in a display area would not be allowed to operate in that manner in the zone occupied by the subject property. Mr. Dodge also stated Sherryland Park, Incorporated operates a residential park and has planning permits for an eventual 120 sites. Mr. Dodge also reiterated that building permits are necessary for mobile homes when they are placed on their final or permanent sites, as is the case with Sherryland.

The Board finds the two mobile homes the Taxpayer is seeking exemption for under RSA 72:7-a were installed on their permanent sites, on April 1, 1988.

The Board finds the landscaping and other mobile home park accountements were in place.

The Board is unable to determine from the evidence presented and the record whether the two subject mobile homes were 100% connected to their respective utilities. The Board notes that it is highly unlikely that any remaining connection for utilities amounted to more than a simple final connection and that the utilities were installed to the mobile homes for all intents and purposes.

The Board rules Sherryland Park, Incorporated had the two subject homes in place in a manner no different than a stick built builder might have

completed homes on their development sites, as of April 1 1988.

The Board, therefore, rules the Taxpayer has failed to prove the subject property should be exempt from taxation as of April 1, 1988. The ruling is, therefore: Request for abatement denied

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(s) Anne S. Richmond, Esq., Chairman

(s) George Twigg, III, Member

(s) Peter J. Donahue, Member

(s) Paul B. Franklin, Member

Date: April 24, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Sherryland Park, Inc., c/o George Hast, Taxpayer; and Chairman, Selectman of Tilton.

(s) Michele E. LeBrun, Clerk

Date: April 24, 1990

Sherryland Park, Inc.

v.

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ORDER RE MOTION FOR RECONSIDERATION

In a letter received by the Board of Tax and Land Appeals on April 30, 1990, the Taxpayer submitted the following motion for reconsideration:

Whereas: RSA 72:7a apparently was not considered in any way, shape or form in regard to the fact that Sherryland Park, Inc.

1. Is a dealer
 2. Both structures were held as stock and trade for resale
 3. Eight other homes were held in the same manner before and after these two homes were put into the stock of Sherryland inventory
 4. Whereas: the board was misled by the Town's submission of subdivision and zoning regulations of 1989.
 5. Whereas Mr. Dodge states; that building permits are required, unlike site built homes under the Tilton zoning regulations prior to 1989, mobile homes were not treated the same as site built homes. Mobile homes were a flat rate fee of (\$20.00) twenty dollars, site built homes were (\$25.00) twenty-five dollars
 6. Where Sherryland Park, Inc. has been a dealer of mobile homes since 1984, RSA 72:7a
 - a. The last sentence of the paragraph until changed by the legislation and executive branch of the State of New Hampshire should be held binding in this case.

The Board reaffirms its decision of April 24, 1990, that ruled the two homes subject to the appeal were no different from stick-built homes speculatively built and located on their own lots, other than the fact that

they were owned April 1, 1988, by a dealer of mobile homes. To allow such homes to escape taxation simply based on the owner holding a mobile-home

dealer franchise or agency while taxing identically set-up and located stick-built or modular homes would result in less than proportional assessment as required in the New Hampshire Constitution. Part 2, Article 5, of the New Hampshire Constitution states in part:

And further, full power and authority are hereby given and granted to the said general court, from time to time . . . to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within, the state; and upon all estates within the same

Therefore the Board declines to reconsider its decision and denies any rehearing in this appeal.

SO ORDERED.

May 16, 1990

BOARD OF TAX AND LAND APPEALS

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Order have been mailed this date, postage prepaid, to the Taxpayer, Sherryland Park, Inc., c/o George Hast, and to the Chairman, Board of Selectmen, Town of Tilton.

Michele E. LeBrun, Clerk

May 16, 1990