Reginald E. & Frances A. Adrien v. Epping, Docket No. 5238-88

Frances Adrien & Isabelle Price v. Epping, Docket No. 5239-88

John E. & Violette M. Allison v. Epping, Docket No. 5240-88

Mildred L. Aucoin v. Epping, Docket No. 5242-88

Mary H. Bancroft v. Epping, Docket No. 5243-88

Leon J. & Geraldine M. Barry v. Epping, Docket No. 5244-88

Robert E. Belcher v. Epping, Docket No. 5245-88

James A. & Margery C. Blair v. Epping, Docket No. 5246-88

Arnold & Bernice Bowden v. Epping, Docket No. 5247-88

Catherine F. Brehaut v. Epping, Docket No. 5248-88

Elsie F. Chonak v. Epping, Docket No. 5249-88

Mabel V. Currier v. Epping, Docket No. 5250-88

David W. & Irma P. Dana v. Epping, Docket No. 5251-88

Leo J. & Marie B. Delisle v. Epping, Docket No. 5252-88

Bernard P. & Dorothy M. Devlin v. Epping, Docket No. 5253-88

Walter L. & Frances Driscoll v. Epping, Docket No. 5254-88

Harry F. & Ethel M. Evans v. Epping, Docket No. 5255-88

James A. & Barbara M. Flaherty v. Epping, Docket Nos. 5256-88 & 8498-90

Alice M. Foley (& Stephen M. Foley, deceased) v. Epping, Docket No. 5257-88

Douglas G. & Ethel L. Forsythe v. Epping, Docket No. 5258-88

Edward L. & Gloria J. Fritz v. Epping, Docket No. 5259-88

Doris R. Fuller v. Epping, Docket No. 5260-88

Bertram G. & Dorothy E. Gade v. Epping, Docket No. 5261-88

Bernard O. & Mary F. Gauthier v. Epping, Docket No. 5262-88

Gertrude L. Geremia v. Epping, Docket No. 5263-88

Margaret B. Greenfield v. Epping, Docket No. 5264-88

Doris A. Kelly v. Epping, Docket No. 5265-88

Priscilla Leslie v. Epping, Docket No. 5266-88

Bernice O. Lester v. Epping, Docket No. 5267-88
Francis X. & Jean M. Lewis v. Epping, Docket No. 5268-88
Francis S. & Josephine F. Maslowski v. Epping, Docket No. 5269-88
Gordon S. & Thelma M. May v. Epping, Docket No. 5270-88
Chester & Mildred Monbleau v. Epping, Docket No. 5271-88
Fredric W. & Helen F. Moody v. Epping, Docket No. 5272-88
Ruth H. & Emma M. Morrison v. Epping, Docket No. 5273-88
Raymond G. Pearo, Jr. v. Epping, Docket No. 5274-88
Charles & Gloria Pearson v. Epping, Docket No. 5275-88
Philip & Almerinda Racite v. Epping, Docket No. 5276-88
John M. Rowe v. Epping, Docket No. 5278-88
Robert H. & Theresa U. Saunders v. Epping, Docket No. 5279-88
Bertram A. Smith v. Epping, Docket No. 5280-88
Irene M. Sousa v. Epping, Docket No. 5281-88
Kenneth D. & Shirley W. Stockpole v. Epping, Docket No. 5282-88
Raymond L. & Agnes A. Surette v. Epping, Docket No. 5283-88
John E. & Margaret L. Wilson v. Epping, Docket No. 5284-88
Edward J. Young, Jr. v. Epping, Docket No. 5285-88

DECISION

These 46 appeals, having been consolidated for hearing, were heard on September 11, 1991. The taxpayers were represented by Susan S. Maire, Esq. The town was represented by Scott W. Bartlett, appraiser for M.M.C., Inc.

The properties under appeal are all manufactured housing units (MHU) owned by the individual taxpayers and all are located within the Pine & Pond Park in Epping. For the reasons stated below, the appeals for abatement are denied.

The taxpayers have the burden of showing the assessments were disproportionately high or unlawful, resulting in the taxpayers paying an unfair and disproportionate share of the 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 failed to carry their burden and prove any disproportionality.

Attorney Maire argued the assessments were disproportional because: 1) the town appraised the MHU in Pine & Pond Park with a 40 percent market adjustment factor while similar units located on their own land or on land of

others had no market adjustment factor;

2) the town considered only sales of units in Pine & Pond Park in assessing all the units in Pine & Pond Park rather than sales of units throughout the town;
3) the town used a percentage factor applied to the depreciated replacement cost of the MHU to account for the locational right and value rather than a constant value regardless of quality and size of the unit. This method of attributing locational value results in a variable value, and thus a disproportionate value, between units rather than a constant value for similar location;
4) the taxpayers have no lease, only a monthly rental agreement;
5) Pine & Pond Park has many restrictions and regulations (such as minimum age, no children, no dogs or cats, approval by the park owner of resales of any units, etc.) while units on their own land do not have such restrictions.

The town argued the assessments were proper because:
1) approximately 10 sales of units in Pine & Pond Park prior and subsequent to the revaluation show a good correlation to the assessments (Exhibit TN-A);
2) the 40 percent market adjustment was derived from the correlation of the differences between the depreciated replacement cost of the units and their sales;
3) the locational right and value of units on their own land was included in the value of the land;
4) there were no sales of MHU on land of others that are not manufactured home parks; therefore, the appraisers used their experience and judgement and did not apply a market adjustment factor to those units;
5) units in other manufactured home parks also received market adjustment factors albeit lower than those in Pine & Pond Park;
6) Pine & Pond Park is a well landscaped and well kept park, contains a sizable pond and has good access to Rte. 125.

First, the Board rules that the taxpayers' appeals are based on the Constitution of New Hampshire, Part 2 , Article 5, which 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....

and RSA 75:1 (supp) which states:

> Except with respect to open space land appraised pursuant to RSA 79-A:5, and residences appraised pursuant to RSA 75:11, the selectmen shall appraise all taxable property at its full and true value in money as they would appraise the same in payment of a just debt due from a solvent debtor, and shall receive and consider all evidence that may be submitted to them relative to the value of property, the value of which cannot be determined by personal examination.

The Board finds, as it did in Arnold v Epping, #90-369 and Roberts v Epping, #90-370 and affirmed by the New Hampshire Supreme Court, the town was 1) correct in using sales of units within Pine & Pond Park as a basis for assessing all the units in the Park and 2) correct in applying a 40 percent market adjustment factor for the transferable and taxable locational rights accruing to the units. The town did consider sales of MHU through out the town in determining the various assessments. Because those sales indicated a significantly higher price being paid for a unit being located in Pine & Pond Park versus those in other parks or those on their own land, the town was correct in accounting for the difference in the market adjustment factor. To find, as the taxpayers would have us do, that similar MHU, regardless of their location, should be assessed the same is as specious an argument as asserting that all acres with frontage on a road should be assessed for the same amount regardless of their respective location and associated amenities. The market and logic do not support such arguments.

As to the taxpayers' argument that the market adjustment factor results in a variable rather than constant value, the Board rules that either approach can be used as long as the one chosen most accurately reflects the judgements of the buyers and sellers in the market place for that type of property. In this case, the evidence is clear that the use of a factor applied to the depreciated replacement cost of the unit produces more equitable assessments vis-a-vis market value than the use of a constant value from unit to unit. To have used a constant value for location would have resulted, in this case, in overassessing the smaller units and underassessing the larger units.

Lastly, the lack of the taxpayers having leases and the Park's restrictions and regulations are all strong arguments to use sales of other

units within the

Park to determine the assessments as those conditions are considered by the buyers and sellers and are reflected in the final transaction price.

Therefore, the appeals for abatement are denied.

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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Michele E. LeBrun, Member

Date: September 25, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Susan S. Maire, Esq., counsel for Pine & Pond Park, taxpayers; and Pamela J. Newkirk, Esq., counsel for the Chairman, Selectmen of Epping.

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Brenda L. Tibbetts, Clerk

Date: September 25, 1991

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