
TAX - NEW HAMPSHIRE

Everett Ashton, Inc. v. City of Concord

Supreme Court of New Hampshire - April 29, 2016 - A.3d - 2016 WL 1719255

Manufactured housing park owner brought action against city for declaratory relief, injunctive relief, and damages, after city refused to issue demolition permits for abandoned manufactured homes until owner paid taxes owed by tenants.

The Superior Court held that city was required to issue the permits, that city could not place a lien on owner's land for its former tenants' unpaid water bills, and that owner was entitled to compensation and attorney's fees. City appealed.

The Supreme Court of New Hampshire held that:

- As a matter of first impression, city's refusal to allow owner to remove homes exceeded its discretion;
- Municipalities may place a lien on a park owner's property if tenants, who have individual meters, fail to pay their water bills; and
- City's decision to withhold demolition permits was not a regulatory taking that required just compensation.

City's refusal to allow manufactured housing park owner to remove valueless, abandoned homes until it paid taxes thereon, despite express statutory provision that park owners were not responsible for such taxes, exceeded scope of city's discretion, and therefore city was required to issue demolition permits for homes in park. City could not hold owner hostage by refusing to allow removal of derelict homes even though owner could not have been held liable for unpaid taxes, and legislature could not have intended for discretion granted to city to allow removal of structures taxed as real estate to be exercised in way that would allow city to nullify statute stating park owners were not liable for taxes due upon manufactured housing.

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