

2003 DRAFTING REQUEST

Bill

Received: **01/09/2003**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **scott**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax - property**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Recreational mobile home

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L Tax
/1	jkreye 01/09/2003	jdyer 01/10/2003	chaskett 01/10/2003	_____	sbasford 01/10/2003	mbarman 02/04/2003	

FE Sent For:

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At intro

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Handwritten note: **per Scott (phone)** with an arrow pointing to the **Jacketed** column header.

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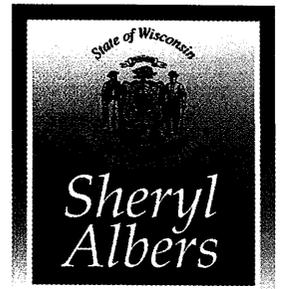
See Attached

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/?	jkreye	1/10 jcd	1/10 CPH	FS/CPH <u>1/10</u>			

FE Sent For:

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To: LRB – Drafting
From: Representative Sheryl K. Albers

Date: January 8, 2003
Subject: Recreational Mobil Homes

Please draft a 2003 Bill that does the following:

- 1) Modify or rewrite the statutory definition of “recreational mobile home” in §70.111 (19) (b) to incorporate the American National Standard Institute’s Standard A119.5 for Recreational Park Trailers. Specifically, the trailer will be exempt from taxation if:
 - a) the trailer is a recreational vehicle primarily designed to provide temporary living quarters for recreation, camping or seasonal use,
 - b) is built on a single chassis mounted on wheels,
 - c) has a gross trailer area not exceeding 400 square feet in its set-up mode, and
 - d) is certified by the manufacturer as complying with the ANSI Standard A 119.5.

- 2) Create an exemption for any attachment to a recreational travel trailer (other than another trailer) that does not exceed 400 square feet. This will allow a small porch, a deck, an attached awning, etc. to be used without it becoming the basis for turning the recreational trailer into a taxed mobile home.

To provide more relevant information regarding my intent, please reference the following (enclosed):

- a) Letter to the Department of Revenue, dated 9 Dec 02, from 14 legislators
- b) Letter from the Wisconsin Association of Campground Owners dated 23 Oct 02
- c) “Property Tax Guide for Wisconsin Mobile Home Owners” – Wisconsin Department of Revenue [note specifically pages 4-5]
- d) “Legal Definitions for Recreational Park Trailers” – Recreational Park Trailer Industry Association, Inc. [note specifically page 2, delineation of the American National Standard Institute’s Recreational Park Trailer Standard, A119.5]
- e) *Ahrens v. town of Fulton*, 240 Wis. 2d 131, 621 N.W.2d 643 (2002)

Please contact Attorney Scott Harold Southworth in my office with any questions at 266-8531.
Thank you.



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

December 9, 2002

Secretary Rick Chandler
2135 Rimrock Rd.
P.O. Box 8933
Madison, WI 53708-8933

Dear Secretary Chandler:

Recently, our offices were contacted reference a new DOR policy relating to the taxation of recreational trailers (titled "recreational mobile homes" in the Wisconsin statutes). Specifically, the DOR ordered local assessors to voraciously identify and tax these small tourist trailers under the personal property tax system by utilizing a unique interpretation of state statute and a recent Wisconsin Supreme Court ruling. We disagree with the department's newfound method of raising tax revenue, especially given Wisconsin's current reputation for high taxes, our sluggish economy, and our dependence on tourist revenue in rural areas of the state.

Section 70.111 (19) (b) of the Wisconsin Statutes defines "recreational mobile homes" as units "no larger than 400 square feet" that are used "as temporary living quarters for recreational, camping, travel or seasonal purposes." Following the recent and explicit directive of the DOR, local assessors are now engaging in a scheme to tax these small tourist trailers by using one of two methods:

- 1) Notwithstanding manufacturer certification on the trailers denoting they are less than 400 square feet, assessors are creatively re-measuring the trailers to ensure they can reach the 400 square footage mark in order to classify the trailers as "mobile homes." In some cases, they measure "air" in order to garner a few extra feet – enough to latch the tax onto the owner.
- 2) Using a recent Wisconsin Supreme Court decision [*Ahrens v. Town of Fulton*, 240 Wis. 2d 131, 621 N.W.2d 643 (2002)], assessors are able to find more than 400 square feet of living area within a recreational mobile home by adding the square footage of "rooms, porches, decks and the like, that are attached in any way to the basic unit." While the court's ruling does not appear unfounded, we do not believe that a small deck off of a recreational trailer should serve as the basis for the entire trailer becoming the subject of personal property taxation. Regardless, discretion previously existed in the application of this standard; now, the DOR's order to assessors to go into our local campgrounds and find attached decks and porches in order to get recreational trailers onto the tax rolls has resulted in new taxation.

We urge the department to immediately cease its tourist taxation efforts, and order local assessors to do the same, until the Legislature can properly address the situation. Since the department's efforts are tarnishing our reputation as a hospitable state for tourists to come and spend their time (and money), we intend to introduce legislation to remedy the situation early in the upcoming session. Specifically, our legislation will do the following:

- 1) Modify the statutory definition of "recreational mobile home" to incorporate the American National Standard Institute's Standard A119.5 for Recreational Park Trailers. If the trailer is a recreational vehicle primarily designed to provide temporary living quarters for recreation, camping or seasonal use, is built on a single chassis mounted on wheels, has a gross trailer area not exceeding 400 square feet in its set-up mode, and is certified by the manufacturer as complying with the ANSI Standard A 119.5, the trailer will be exempt from taxation, notwithstanding any clever assessor measuring.
- 2) Create an exemption for any attachment to a recreational travel trailer (other than another trailer) that does not exceed 400 square feet. This will allow a small porch, a deck, an attached awning, etc. to be used without it becoming the basis for turning the recreational trailer into a taxed mobile home.

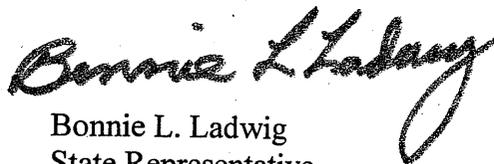
Given the fact that some owners are being taxed this year, and others have not yet fallen under the DOR's tax net at this point in time, the only fair method of dealing with this situation is for the department to cease its efforts, and, if possible, waive any tax this year for recreational trailers until the Legislature can act. Additionally, the little bit of personal property tax revenue generated from these small trailers is far outweighed by the taxes paid on the hundreds of thousands of dollars the tourists who own these trailers spend each year in our restaurants, gas stations and attractions. Taxing tourists out of the state will hurt our campground owners, our tourist attractions, and our overall economy, thus lowering state revenues.

Please respond to us as soon as possible as to the action you are willing to take in regard to our request. We would hope that the department would show due deference to the Legislature under the circumstances. Thank you.

Sincerely,



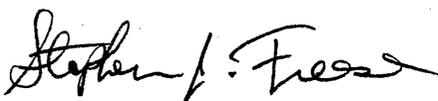
Sheryl K. Albers
State Representative
50th Assembly District



Bonnie L. Ladwig
State Representative
63rd Assembly District



Dale W. Schultz
State Senator
17th Senate District



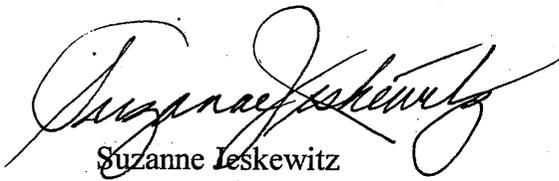
Stephen J. Freese
State Representative
51st Assembly District



Scott L. Gunderson
State Representative
83rd Assembly District



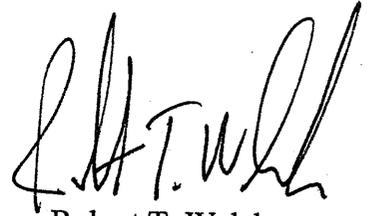
Joanne B. Huelsman
State Senator
11th Senate District



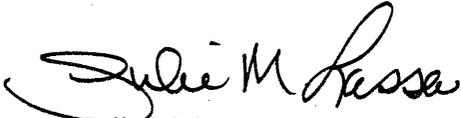
Suzanne Leskewitz
State Representative
24th Assembly District



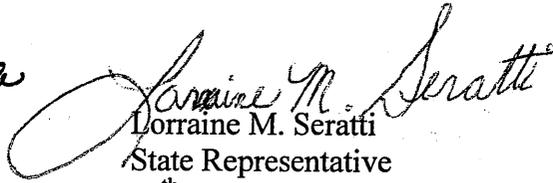
J.A. Hines
State Representative
42nd Assembly District



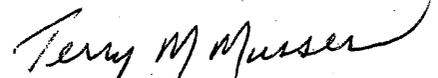
Robert T. Welch
State Senator
14th Senate District



Julie M. Lassa
State Representative
71st Assembly District



Lorraine M. Seratti
State Representative
36th Assembly District



Terry M. Musser
State Representative
92nd Assembly District



Glenn Grothman
State Representative
59th Assembly District



Mark Gundrum (GR))
State Representative
84th Assembly District

Wisconsin Association of Campground Owners

P.O. Box 130
17630 North Main Street
Galesville, WI 54630
Phone: 800-843-1821

October 23, 2002

Representative J. A. "Doc" Hines - 42nd District
Room 10 West
State Capitol
P.O. Box 8952
Madison, WI 53708-8952

Scott Southworth
Office of Representative Sheryl Albers - 50th District
State Capitol
P.O. Box 8952
Madison, WI 53708-8952

Dear Representative Hines and Mr. Southworth,

We want to again thank you for giving us your time yesterday to hear our concerns regarding property taxation of recreational trailers. As we mentioned, the State Department of Revenue (DOR) is making abrupt policy changes in their interpretation of Statute 70.111 (19 b) which provides property tax exemption to Recreational Mobile Homes (as defined in the Tax Guide for Wisconsin Mobile Home Owners).

We mentioned that the wording used by the State Legislature when drafting Statute 70.111 (19 b) was taken from the July 22, 1982, amendment to the Federal Government - Department of Housing and Urban Development (HUD) amending their "Manufactured Home Construction and Safety Standards" (Title 24 CFR, Part 3280 and Part 3282). This amendment to the HUD standard established an exemption to Recreational Vehicles (as they define them) that are under 400 square feet. When the U.S. Congress passed this law, they made it preemptive of all state and local laws which therefore prohibits states and/or local units of government from passing more stringent requirements. HUD has since then given the authority to the Recreational Park Trailer Industry Association (RPTIA) to certify that these trailers meet this requirement. HUD Interpretive Bulletin A-1-88 established the measurement procedure that the RPTIA was/is to use in calculating trailer square footage. When Recreational Park Trailers (as the RPTIA defines them) are manufactured, they receive a sticker/seal certifying that they meet the HUD standard (which was and by federal law still must be the standard for all states). As part of the RPTIA certification, the American National Standard Institute (ANSI) has established standard A 119.5 restating the HUD standard and stipulating as one of its criteria that the trailer is to be "Certified by the manufacturer as complying with ANSI 119.5". We supplied correspondence from the RPTIA dated May 20, 2002, detailing the above information.

We also supplied a copy of HUD correspondence, dated July 20, 1989, which answered the question of whether or not add-on patio units/rooms should be considered when calculating total square footage for exemption purposes. Donald Fairman, HUD's then Chief of Standards and Products Branch - Manufactured Housing and Construction Standards Division, stated that such add-on patio rooms would not be included. This ruling is understandable in that if these units were calculated to have over 400 square feet (a case created if the square footage of an add-on room was to be include), they would no longer be exempt and probably would not meet all of the Hud standards of a Manufactured Home per Title 24 CFR, Part 3280, which would then most likely render them legally uninhabitable.

As we mentioned, the recent and abrupt change in practice by the DOR is about to wreck havoc in the campground and trailer sales industry. The tenants of a number of campgrounds are already being taxed if their otherwise exempt park trailer has an add-on room. We have been notified that the tenants at our campground will taxed next year for the same reason. According to Jim Tracy, Supervisor of the West Central Property Assessment Office in La Crosse, it is only a matter of time until all campgrounds will be affected. This more restrictive policy seems to be in direct violation of the preemptive status of the HUD/ federal law mentioned in the above second paragraph and is in danger of creating the "uninhabitable" situation mentioned in the previous paragraph. We also have several campgrounds where assessors, following orders from the Southern District Office, Michael Couillard - Supervisor, are measuring Recreational Park Trailers differently from the method used by HUD/RPTIA and declaring them to be just over 400 square feet . Tenants with such trailers in these campgrounds have already received property tax bills for 2002. This again seems to be more restrictive and in direct violation of the preemptive status of the HUD/federal law and again is in danger of creating a legally "uninhabitable" situation with these trailers.

We also expressed concern about the vast number of inconsistencies that exist from federal standards to state taxation policies, from the state DOR to the state Department of Commerce (licensing department for mobile home parks) having conflicting definitions and policies, from one DOR District Office to the next, from one county to the next within the same District Office jurisdiction, and from one township to the next within the same county! One important example of these inconsistencies is in dealing with the 400 square foot issue when comparing the Department of Commerce's 2002 rules for licensing a Mobile Home Park versus the DOR's 2002 Property Tax Guide for Wisconsin Mobile Home Owners (we provided copies of each to you yesterday). In the Department of Commerce publication, the method for square footage calculation is in line with HUD in that it states that you do not include attachments/add-on rooms. The DOR publication, Statute 66.0435, says that mobile homes do include additions, but the wording does not actually tie the additions to square footage determinations. More importantly, the actual language of statute 70.111 (19 b), which defines the 400 square foot exemption in the "guide's" Recreational Mobile Home definition, does not state that the exemption is subject to the square footage of such additions. If a business owner possessed and referred to the wrong publication to guide his business decisions, the result would be what it has become, potentially devastating.

We were encouraged by your reaction to our dilemma and your position that what the taxing arm of state government is doing needs legislative clarification and correction. Although we realize it to be a more difficult task, we hope that your efforts to retroactively correct the taxes levied to the campground tenants in the DOR Southern District, due to measurement and square footage calculation methods that differ from the standard set forth by HUD, will prove fruitful.

Please let myself or Dan Lange, our WACO lobbyist, know if there is anything we can do to assist, whether it be the supplying of pertinent information or our actual presence at meetings, hearings, etc.

As we stated yesterday, we were honored to have you as our guest and we thank you in advance for your efforts in dealing with this extremely important issue to our industry.

Sincerely,



Darell Larson Yukon Trails Camping - Owner
WACO - President

cc: State Senator Dale W. Schultz - District 17
All in Attendance:

Dan Lange	WACO - Lobbyist
Lori Severson	WACO - Executive Director
Gary Doudna	Buffalo Lake Camping Resort, Montello - Owner
	National ARVC Representative and Former WACO President
Eric Anderson	Sky High Camping, Portage - Owner
	WACO Board Member
Frank and Alice Ward	Holiday Shores Campground & Trailer Sales, Wis Dells - Owners
	Former WACO President
Jim Kersten	Hidden Valley RV Resort, Milton - Owner
	Former WACO President
Paula Martel	Neshonoc Lakeside Campground & Trailer Sales, West Salem - Owner
	Former National ARVC Representative and Former WACO President
Ron Peterson	Scenic Traveler Inc (Trailer Sales), Slinger & Wis Dells - Owner
Debbie Koss	Scenic Traveler Inc (Trailer Sales), Wis Dells - Manager
Ed Buck	Buck's Crossing (Trailer Sales), Lyndon Station - Owner
Rich Johnson	Seasonal Site Renter at Yukon Trails Camping, Lyndon Station

Wayne Schult - River Bay Resort

0

**PROPERTY TAX GUIDE FOR
WISCONSIN MOBILE HOME OWNERS**

2002

Wisconsin Department of Revenue
Division of State & Local Finance
Bureau of Assessment Practices
P.O. Box 8971
Madison, WI 53708-8971
bapdor@dor.state.wi.us

DOR

Property Tax Guide for Wisconsin Mobile Home Owners

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DEFINITION OF TERMS

- Arm's-Length Sale:** A sale between two parties, neither of whom is related to or under abnormal pressure from the other.
- Assessed Value:** A dollar amount assigned to taxable real (by parcel) and personal (by owner) property by the assessor for the purpose of taxation. This amount may be above or below the current market value of the property. Wisconsin law provides that all non-agricultural assessments must be based on the market value of property as of January 1st each year. For agricultural assessments, please see use value below.
- Assessment Level:** The relationship between the assessed value and market value of all taxable property within a district (town, village or city). For example, if the assessed value of all the taxable property in Town "A" is \$2,700,000 and the market value of all taxable property in Town "A" is \$3,000,000 then the "assessment level" is said to be 90%.
- Assessment Ratio:** The relationship between the assessed value and the market value of a particular parcel. If a parcel sold for \$50,000 and is assessed for \$46,000 it is said to have a "ratio" of 92%.
- $$\text{Assessment Ratio} = \frac{\text{Assessed Value}}{\text{Market Value}} = \frac{\$46,000}{\$50,000} = 92\%$$
- Equalized Value:** The estimated value of all taxable real and personal property in each taxation district, by class of property, as of January 1, and certified by the Department of Revenue on August 15 of each year. The value represents market value (most probable selling price), except for agricultural property, which represents its Use Value (ability to generate agricultural income).
- Full Value:** The same as equalized value, however is often used when referring to the value of school and special districts.
- Levy:** The amount of tax imposed by a governmental unit.
- Market Value:** The amount of cash (or in terms equivalent to cash) for which the property would be sold by a willing seller to a willing buyer under normal market conditions.
- Reassessment:** Redoing the existing assessment roll because of substantial inequities. All the property of the district is viewed, valued and placed in the new assessment roll, which is then substituted for the original roll.
- Revaluation:** Placing new values on all taxable property for the purpose of a new assessment. The previous year's assessment roll is not affected. The term is often used in conjunction with Section 70.055 of the Wisconsin Statutes where expert help can be hired to work with the assessor in revaluing the district.
- Tax Rate:** The ratio of the levy to the base. The tax rate is determined by dividing the amount of the tax levy by the total assessed value of the tax district. It is often expressed in terms of dollars per hundred or dollars per thousand.
- Taxation District:** A city, village, or town. If a city or village lies in more than one county, that portion of the city or village which lies within each county.
- Taxing Jurisdiction:** Any entity authorized by law to levy taxes on general property that is located within its boundaries.

INTRODUCTION

What is "General Property?"

"General Property" is defined by statute as including all taxable "real" and "personal" property except that which is taxed under special provisions, such as low-grade iron ore, utility, Forest Crop, Woodland Tax, and Managed Forest property.

The terms "real property," "real estate," and "land" include the land and all buildings, improvements, fixtures, and rights and privileges connected with the land.

The term "personal property" includes all goods, wares, merchandise, chattels, and effects of any nature or description having any marketable value and not included in the term "real property."

Under general property tax law all property as defined above is taxable unless expressly exempted by the legislature.

Because Mobile Homes can be assessed either as Real Estate or Personal Property, subject to a parking fee, or exempt fundamental concepts of property taxation will be explained before focusing on Mobile Homes.

What are the components of the general property tax?

There are two basic components in any tax: the base and the rate. By multiplying the base times the rate, the amount of tax is determined.

In the property tax, the base is the value of all taxable property in the district. The clerk calculates the rate after the governing body of the town, village, or city determines how much money must be raised from the property tax. In Wisconsin the town, village, or city treasurer collects property taxes not only for its own purposes, but also for the school, the county and the state.

Who determines the assessed value of the taxable property?

The assessor of each taxation district determines the assessed value of all taxable property, with the exception of manufacturing property. The Department of Revenue makes the annual assessment of all manufacturing property in the state.

ASSESSMENT PROCESS

What is an assessment and what is its purpose?

An assessment is the value placed upon your property by the assessor. This value determines what portion of the local property tax levy will be borne by your property.

How are assessments made for non-agricultural properties?

An assessment should be based on the amount that a typical purchaser would pay for the non-agricultural property under ordinary circumstances. Assessments should be uniform, "from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefore at private sale" (Section 70.32 of the Wisconsin Statutes).

Who makes the assessment?

The assessor of manufacturing property is the Department of Revenue. For all other property (residential, agricultural, etc.) the assessor is appointed or elected at the local level. When the assessor has completed the

assessments, the assessor's affidavit is signed and attached to the assessment roll as required by law. Both are then turned over to the Board of Review.

Can the assessment on my property be raised even if the assessor has never been inside the mobile home?

An interior inspection will result in a better quality assessment and is the recommended practice. However, it is not always possible to do this. The law requires that property be valued from actual view or from the best information that can be practicably obtained.

It is also important to remember that Wisconsin has an annual assessment. This means that each year's assessment is a "new" assessment. The assessor is not obligated to keep the same assessment year after year but rather has a duty to keep all property at market value. Therefore, the assessor may increase your assessment because of building permits or sales activity even though an actual inspection of the property has not been made.

Will I be notified if there is a change in my assessment?

According to Section 70.365 of the Wisconsin Statutes, whenever an assessor changes the total assessment of any real property or any improvements taxed as personal property under Section 77.84(1) by any amount, the owner must be notified. However, failure to receive a notice does not affect the validity of the changed assessment. The notice must be in writing and mailed at least 15 days prior to the Board of Review meeting (or meeting of the Board of Assessors if one exists). The notice contains the amount of the changed assessment and the time, date, and place of the local Board of Review (or Board of Assessors) meeting. The notice must include information notifying the owner of the procedures to be used to object to the assessment. The notice requirement does not apply to personal property assessed under Chapter 70.

How can I find out about my assessment?

Each property is described in books called assessment rolls that are open for examination at the office of the clerk or the assessor during regular office hours. In many districts each property is identified by a parcel number that also appears on your tax bill. Your name should also appear on the assessment roll opposite the legal description of your property. Properties other than your own may be viewed as well. Personal Property rolls are generally kept in alphabetical order by name of the owner.

Can property be assessed higher or lower than market value?

Wisconsin law recognizes the difficulties in maintaining annual market value assessments and therefore requires each municipality to assess all property within 10 percent of market value once every five years. If the municipality does not comply, the law requires the assessor to attend a Department of Revenue training session and after seven consecutive years of non-compliance requires the Department to order a state supervised assessment.

Since 1992, Wisconsin law required each municipality to assess each major class of property within 10 percent of the corresponding equalized value of the same class once every five years. Requiring municipalities to assess at or near market value makes it easier for taxpayers to determine whether their assessments are equitable.

MOBILE HOME ASSESSMENT

What is a "mobile home?"

For purposes of property taxation in Wisconsin, a "mobile home" is defined by Wisconsin Statutes (66.0435) as:

"that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and *includes* any additions, attachments, annexes, foundations and appurtenances."

Are mobile homes *real or personal property*?

A mobile home can be classified as *real or personal property*. The conditions required for a mobile home to be classified as an improvement to *real property* (70.043(1)) are:

- It is connected to utilities *and*,
- It is on a foundation *and*,
- It is located on land owned by the mobile home owner

The conditions required for a mobile home to be classified as *personal property* (70.043(2)) are:

- if someone other than the mobile home owner owns the land upon which the mobile home is located *or*,
- if the mobile home is not connected to utilities *or*,
- if the mobile home is not set upon a foundation (70.043(2))

Are any mobile homes *exempt from property tax*?

Some mobile homes are exempt from property tax. Wisconsin Statute (70.111(19)) exempts *camping trailers* and certain *recreational mobile homes* from personal property taxation.

What are "*camping trailers*" and "*recreational mobile homes*?"

The Statutes (70.111(19)(a)) define camping trailers by reference to statutory vehicles (340.01(6m)) as "a vehicle with a *collapsible or folding structure* designed for human habitation and towed upon a highway by a motor vehicle."

* "*Recreational mobile homes*", on the other hand, are defined (70.111(19)(b)) as units meeting the requirements of a mobile home (66.0435) that are *no larger than 400 square feet* and that are used primarily as *temporary living quarters* for recreational, camping, travel or seasonal purposes."

If a mobile home is on the owner's land and is connected to a well and septic tank and supported by cement blocks, can the assessor classify the mobile home as real estate?

If a mobile home is to be assessed as an improvement to real property, it must be "*set upon a foundation*." The Statute (70.043(1)) states that a mobile home is defined as "*set upon a foundation* if it is off its wheels and is set upon some other support." The assessor has the authority to determine if the cement blocks supporting the trailer meet this definition of "foundation."

Does the fact that the wheels are attached to a mobile home make it exempt?

No. Attached wheels are not the sole criterion for exemption. First, to be entitled to an exemption, the mobile home must be classified as *personal property* (70.043(2)). Secondly, the unit must meet the definition of a "recreational" mobile home found in the Statutes.

How should the assessor measure a mobile home to determine if it qualifies for exemption?

The assessor should calculate the total square footage (rounded to the nearest square foot) using the outside length and width of the mobile home and including the area of any additions and attachments. It is important that only additions and attachments that are clearly attached to the recreational mobile home be included in the calculation of total square footage. The Wisconsin Court of Appeals in *Ahrens Etal vs. the Town of Fulton, Rock County* case number 99-2466, has recently defined how the assessor should determine what is an addition and attachment. The appeals court decision stated, "It seems clear from the forgoing that any rooms, porches, decks and the like, that are attached in any way to the basic unit are included within the definition of a mobile home."

Freestanding structures (appurtenances) should not be included in the mobile home area calculation. Garages, sheds, and other freestanding structures (if they are so affixed to the real estate so as to become a part of it) should be assessed as real estate if the mobile home owner owns the land or as personal property if the mobile home owner does not own the land.

If the town charges a monthly "parking fee" for a mobile home, is there a property tax in addition to the fee?

No. State Statute (70.112(7)) exempts from property taxation "every mobile home subject to a monthly parking fee." (66.0435) A municipality may enact an ordinance to collect a mobile home parking fee from all units located within the municipality *except* for mobile homes that are improvements to *real property* as defined in the Statute (70.043(1)) and *recreational mobile homes and camping trailers* (70.111(19)) and except for mobile homes located in campgrounds licensed under Statute 254.47 and mobile homes located on land where the principal residence home owner is located (66.0435(9))

Are recreational motor homes taxed as mobile homes?

No. The Statute (70.112(5)) exempts motor vehicles from property taxation. This statute exempts items such as "Winnebago" motor homes, Ford campers, and other motorized vehicles known as "RV's." Licensed vehicles and trailers are not considered mobile homes.

How can someone appeal the property assessment placed on a mobile home?

The mobile home owner may appeal the valuation placed on the mobile home by appearing before the local Board of Review and presenting sworn oral testimony as to its true and correct market value. This applies to a Mobile Home whether it is assessed as Real Estate, Personal Property, or subject to the parking fee.

Can the Board of Review exempt mobile homes?

No. Disputes concerning exemption issues are not heard at the Board of Review. Property owners contesting exemption status may file a claim of unlawful tax with the municipality (74.35). If the municipality rejects the claim, a direct appeal may be made to the Circuit Court of the county in which the property is located.

Are a dealer's vacant mobile homes displayed for sale on the sales lot taxable?

No. Vacant mobile homes held for sale by a dealer are considered merchant's stock-in-trade and are exempt (70.111(17)) if the merchant is also the owner of the vacant mobile home.

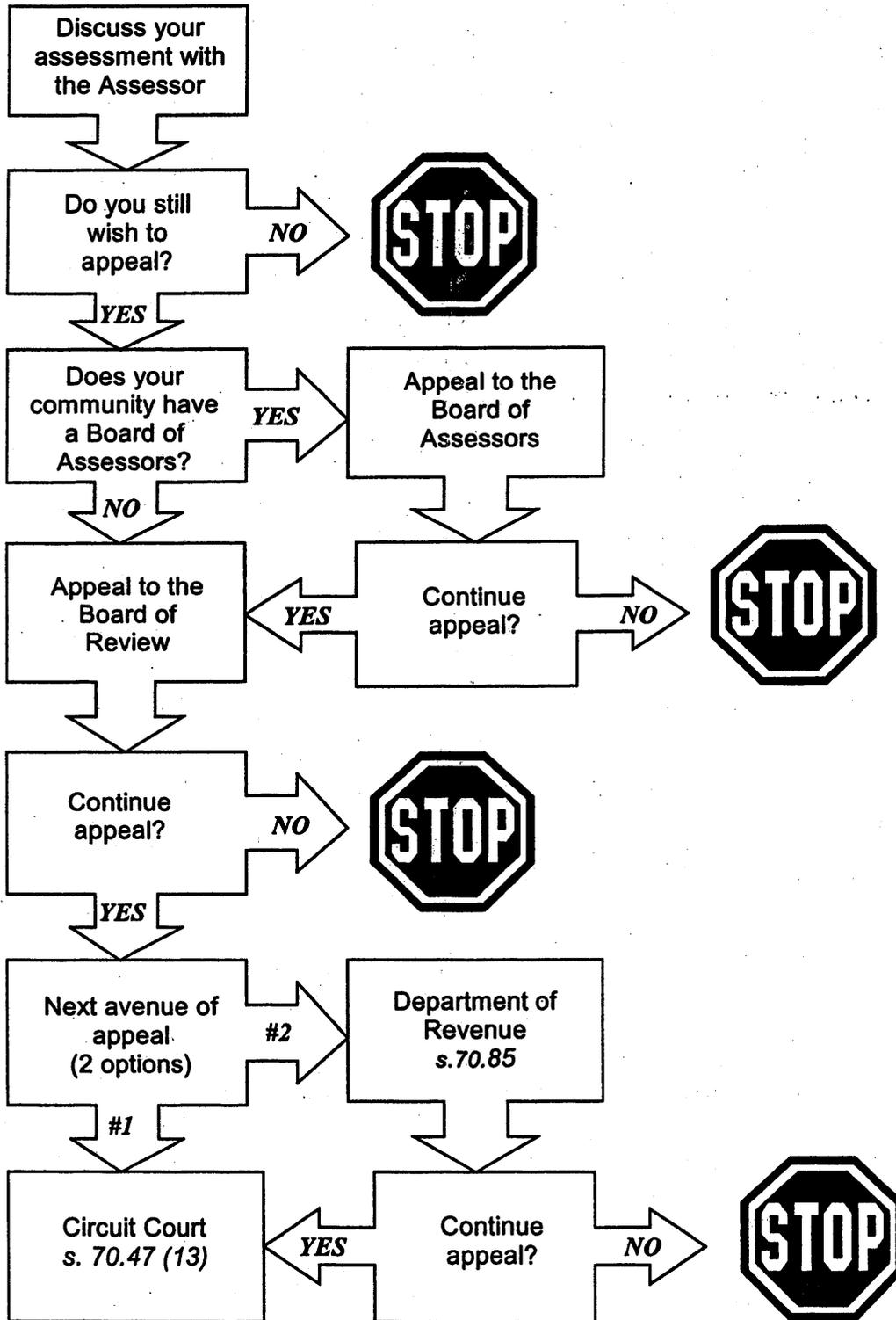
Overview of Mobile Home Property Taxes

Item	Mobile Home per 66.0435	Subject to General Property Tax	Subject to Parking Permit Fees	Comments
Mobile home of any size including additions, on a foundation, connected to utilities, on land owned by unit's owner.	Yes	Yes, as real property	No	Meets definition of mobile home in 66.0435 and real estate in 70.043(1).
Mobile home of any size including additions either still on wheels, and/or not connected to utilities, and/or on land not owned by unit's owner.	Yes	Yes, as personal property unless subject to parking fee	Yes, if located in municipality with 66.0435 parking fee	Meets definition of mobile home in 66.0435 and personal property in 70.043(2). Subject to parking fee if in 66.0435 park; if subject to fee, exempt from personal property tax under 70.112(7).
Recreational mobile home no larger than 400 square feet used as temporary living quarters.	Yes	Exempt under 70.111(19)(b)	No, by 66.0435(3)(c)	Meets definition of mobile home in 66.0435; by size and use exempt from personal property tax under 70.111(19)(b); exempt from parking fee under 66.0435(3)(c).
Camping trailer designed to expand into a tent with built-in space for mattress and other fixtures	No	Exempt under 70.111(19)(b)	No, by 66.0435(3)(c)	"Pop-up" trailer meets definition of camping trailer in 340.01(6m) as trailer with collapsible or folding structure towed on the highway.
Camper body installed or mounted on pick-up truck.	Yes	Exempt under 70.111(19)(b)	No, by 66.0435(3)(c)	Meets definition of mobile home in 66.0435; if under 400 square feet exempt from personal property tax under 70.111(19)(b).
Twin-sections units transported on wheels of dolly and assembled on site.	No	Yes	No	Not a mobile home under 66.0435. Realty if located on land owned by unit's owner; otherwise, treated as personal property as a building on leased land.
Busses or vans	No	Exempt under 70.112(5)	No	Motor vehicle exempt from property tax under 70.112(5)
Vacant Mobile home held for sale by a dealer	No	No	No	Considered merchant's stock under 70.111(17)

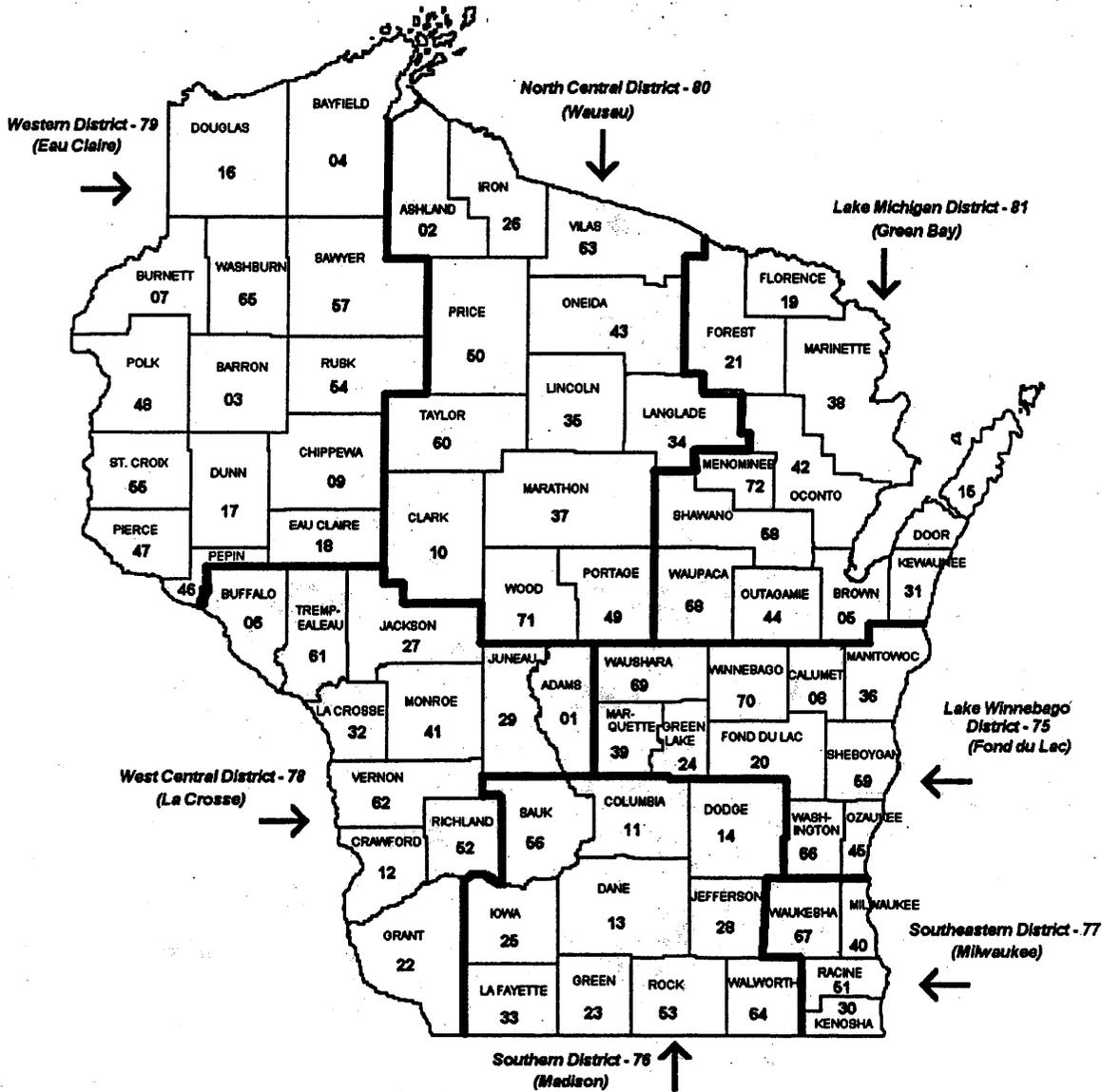
Chapter 70, *General Property Taxes*, and Chapter 66, *General Municipality Law*, can be viewed in their entirety at the Legislature's web site - <http://www.legis.state.wi.us/>

A FLOWCHART OF THE ASSESSMENT APPEAL PROCESS

If you are not satisfied with your assessment, then consider the following appeal process:



BUREAU OF EQUALIZATION DISTRICT OFFICES



Western District
 Thomas Janssen, Supervisor
 707 South Barstow
 Eau Claire, WI 54701-3894
 Phone: 715-836-2866
 Fax: 715-836-6690

North Central District
 Albert Romportl, Supervisor
 710 Third Street
 Wausau, WI 54403-4700
 Phone: 715-842-5885
 Fax: 715-848-1033

Lake Michigan District
 Phillip Sanders, Supervisor
 200 N. Jefferson St., Suite 525
 Green Bay, WI 54301-5183
 Phone: 920-448-5195
 Fax: 920-448-5207

Lake Winnebago District
 Douglas Milius, Supervisor
 845 S. Main Street, Suite 140
 Fond du Lac, WI 54935-6155
 Phone: 920-929-2970
 Fax: 920-929-7202

West Central District
 James Tracy, Supervisor
 Property Assessment Office
 620 Main Street, Rm. 209
 LaCrosse, WI 54601-4161
 Phone: 608-785-9520
 Fax: 608-789-4696

Southern District
 Michael Couillard, Supervisor
 5005 University Ave., Rm. 100
 P.O. Box 8909
 Madison, WI 53708-8909
 Phone: 608-266-8184
 Fax: 608-267-1355

Southeastern District
 James Murphy, Supervisor
 State Office Building
 819 N. 6th Street, Rm. 570
 Milwaukee, WI 53203-1682
 Phone: 414-227-4455
 Fax: 414-227-4071

Bureau Central Office
 Gene Miller, Director
 Area 6-97
 P.O. Box 8971
 Madison, WI 53708-8971
 Phone: 608-266-8131
 FAX: 608-264-6897

It should be noted that HUD has the ability to revise these regulations

10-15-202 12:54PM

FROM RPTIA, INC. 770 251 0025

P. 1



Recreational Park Trailer Industry Association, Inc.

30 Greenville Street Second Floor ■ Newnan ■ Georgia ■ 30263-2602

Phone 770-251-2672 ■ FAX 770-251-0025

Web site: <http://www.rptia.org> ■ E-Mail: rptia@mail2.newnanutilities.org

Thursday, May 30, 2002

Subject: Legal Definitions for Recreational Park Trailers

To Whom It May Concern:

Enclosed are quotations from the various national definitions used for Recreational Park Trailers with information detailing how these definitions were established and who uses them. These definitions are taken from the federal laws and regulations promulgated by HUD; the nationally recognized ANSI Standards adopted by the RPTIA and by state agencies of government; and in the definition found in the bylaws of the RPTIA - the national trade association which represents the manufacturers and suppliers and the state or national associations who primarily represent the RV dealers and RV park owners. To assist you in identifying the actual law, regulation or the by-laws, the quoted copy has been printed in italics. It is our hope that you will find this information helpful. While these definitions are not quite identical, they are very close in content.

FEDERAL LAW

This definition of a manufactured home comes from the federal law - Title IV The National Manufacture Housing Construction and Safety Standards Act of 1974 - as amended, which requires that all manufactured homes be constructed in accordance with construction requirements promulgated by the U.S. Department of Housing and Urban Development (HUD).

The definition for a manufactured home in the federal law as it exists today is found under Section 603 (6) of the law. It is quoted below:

"Manufactured Home" means a structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on sight, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this title,

The manufactured housing definition stipulated in this law includes most recreational park trailers as it is inclusive of all units that exceed 320 square feet when erected on site. However, when the law was last amended by Congress in October of 1980, the House and Senate versions of the Bill had taken different positions over the minimum size required for a unit to be considered a manufactured home. The Senate version stated that 400 square feet should be the threshold while the House called for a smaller 320 square feet. To resolve these differences a congressional conference committee was convened. The conference committee determined that the law should be passed using the 320 square feet minimum size as was proposed by the House. At the same time however, the conference committee also stated that - *"The Secretary of HUD was to consider differing, more flexible standards for smaller Manufactured Homes (such as park trailers) whose square footage is between 320 and 400 square feet and are designed to be frequently transported"*. (Directions given to an agency of the federal government found in a conference committee report are considered to have almost the same force as the law when an agency is setting regulations to implement the law.)

Since the passage of this law, HUD determined not to set standards specifically adapted for these structures but rather has issued a series of regulatory actions (with superseding qualifying

Legal Definitions For Recreational Park Trailers
Page # 2 of 3

definitions) exempting the manufacturers of these 320 - 400 square foot recreation vehicles "Park Models" from meeting the Manufactured Housing Standard. Previous editions of this HUD regulation allowing for the exemption of Recreational Park Trailers required that these products be constructed of such a width as to not require a special movement permit. Other previous requirements had called for the inclusion of full self-containment for the park trailers, but both of these requirements are no longer in the regulation.

The current HUD regulation, which was put in place on June 22, 1982, reads as follows:

Part 3282.8 Applicability

(g) Recreational vehicles: *Recreational Vehicles are not subject to this Part, Part 3280, or Part 3283. A recreational vehicle is a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) self propelled or permanently towable by a light duty truck; and (4) designed primarily not to be used as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.*

It should also be noted, when Congress passed this law they made it preemptive of all state and local laws, effectively barring any state or local unit of government from passing more stringent requirements. HUD also states that they retain the authority to promulgate a unique and separate standard for recreational park trailers should they deem such a standard to be necessary and appropriate.

American National Standard Institute - Standard A119.5 for Recreational Park Trailers

The nationally recognized consensus standard which stipulates the minimum construction requirements for building a recreational park trailer was created under the auspices of the American National Standard Institute - and has been published as ANSI Standard A119.5 for Recreational Park Trailers. The current edition was promulgated in 1998 using the accredited canvass method. This standard covers over 500 safety requirements for recreational park trailer construction. Fourteen states have adopted the ANSI A119.5 Standard and require that all units sold in these states be constructed to meet this standard.

The definition used in the A119.5 Recreational Park Trailer Standard is as follows:

Recreational Park Trailer: *A trailer type unit that is primarily designed to provide temporary living quarters for recreational, camping, travel or seasonal use, that meets the following criteria:*

- (a) Built on a single chassis mounted on wheels.*
- (b) Having a gross trailer area not exceeding 400 square feet (37.15 sq. m.) in the set-up mode.*
- (c) Certified by the manufacturer as complying with ANSI A119.5*

Recreational Park Trailer Industry Association, Inc.

The national association which represents 95% of all Recreational Park Trailer production in the United States has defined Recreational Park Trailers in their bylaws as:

A "Recreational Park Trailer is a recreation vehicle that is primarily designed to provide temporary living quarters for recreation, camping or seasonal use. Built on a single chassis mounted on wheels which has a gross trailer area not exceeding 400 square feet in the set-up mode and is certified by the manufacturer as complying with ANSI A 119.5.

Legal Definitions For Recreational Park Trailers
Page # 3 of 3

The Association also mandates that its manufacturing members submit a written public pledge that as members of the RPTIA their production of recreational park trailers will be in conformance with the A119.5 Standard. The Association conducts frequent unannounced inspections at the manufacturers place of production using qualified third-party inspection agencies. Members who fail to maintain their pledge of A119.5 compliance are subject to dismissal from the Association. A brochure which describes this Standards program in greater detail is enclosed.

Although these three definitions are not exact duplicates they all basically cover the key issues in the same way.

In summary, Recreational Park Trailers are Recreation Vehicles designed and intended to be used for recreational, camping and seasonal use. These units are sold by Recreational Vehicle dealers who are licensed to sell RVs. Recreational Park Trailers are primarily used by their owners as seasonal dwellings which are typically sited in RV parks and campground resorts on sites that are owned, rented or leased and are then occupied by their owners as seasonal or vacation dwellings.

We hope that this information is of value but if you need additional clarification, the RPTIA will be available to assist you. Please don't hesitate to contact us.

Sincerely,



W. R. "Bill" Garpow
Executive Director

SUPREME COURT OF WISCONSIN

CASE No. : 99-2466

COMPLETE TITLE :

Richard Ahrens, Shirley Ahrens, Robert Albright, Shirley Albright, Barbara Allen, Nicholas Allen, Dolores Allen, June Ann Amell, Arnold Anderson, Loraine Anderson, John Augustyniak, Margaret Augustyniak, Milton Bates, Helen Bates, Robert Bauer, Gail Bauer, David Bear, Karen Bear, Michael Bellettiere, Pat Bellettiere, Otto Benz, Glen Black, Melaine Black, Edward Blanchard, Jane Blanchard, Kathy Blazyk, Nordine Bolstad, Nancy Bolstad, Jim Booker, Diana Booker, Virginia Boswell, Robert Boszko, Kathy Boszko, Donald Brake, Mary Brake, Albert Brueggeman, Mary Ann Brueggeman, Fred Burrow, Rosemary Burrow, Wallace Campbell, Donald Childers, Robert Clark, Ilona Clark, Gary Curry, Sandra Curry, Donald Dahlke, Lyla Dahlke, Emery DeRosier, Luvern DeRosier, M.A. DiMarcantonio, Thomas Draws, Vernon Duessing, Dean Eveland, Donna Eveland, Lewis Farmer, Kathleen Farmer, Louis Finger, Loretta Finger, Robert Fisher, Jean Fisher, Mike Foley, Mary Lou Foley, Charles Foudray, Milly Foudray, Diane Franke, Bill Neff, Wayne Frantz, Janet Frantz, John Fritz, Paul Gauer, Sandy Gauer, Gene Gehrt, Jane Gehrt, Antonino Giardina, Rose Giardina, Frank Giardina, Donald Ginchoff, Patricia Ginchoff, Sandra Goff, Kenneth Gray, Jane Gray, Richard Gross, Jane Gross, Wilbur Groth, Lois Groth, Caroline Gruner, Joe Gruspier, Alice Gruspier, Donna Gurholt, Robert Hanlon, Shirley Hanlon, William Hefka, Gail Hefka, Donald Heidner, Helen Heidner, Jack Hill, Mary K. Hill, Edward Hinchley, Marge Hinchley, Darwin Hoefs, Judy Hoefs, Bill Hoke, Rita Hoke, Philip Howard, Helen Howard, Albert Huber, Arlene Huber, Dean Huffstutler, Jinny Huffstutler, Craig Hughes, Sandra Hughes, Edward Hughes, Marlene Hughes, Terry Hurm, Susan Hurm, Lenard W. Jendal, Edith Jendall, Herman L. Johnson, Mary Kane, Edward Kaszubowski, Steven Kostakos, Francis Kozina, Maryellen Kozina, Walter Kruszynski, Loretta Kruszynski, Joseph Kucher, Ruth Kucher, Elaine LaPlant, William Linde, Timothy Liv, Christine Liv, Mike Lockard, Tina Lockard, Richard Lowe,

• • • (Additional names removed due to
number of names as petitioners)

Proctor, Joyce Proctor, Michael Rausch, Richard
Renaud, Vincenette Renaud, Wayne Rice, Dolores
Rice, John Riley, Annette Riley, Norman
Rippberger, Barbara Rippberger, James Rother,
Roman Schmidt, Nancy Schmidt, Clarence Schultz,
Joyce Schultz, Warren Schultz, Harriet Schultz,
Lemke Schurmann, Glenn Shelley, Marvin E. Smith,
Wesley Tanner, Carmelia Tanner, Martin Tivador,
Doris Tivador, Stephen Tobolic, Lloyd Weber,
Harry Whitney, Donna Whitney, Robert Wirt, Jr.,
Robert Wirt, Marilyn Wirt, Jyles Womack, Lynn
Womack, Hubert J. Wright, Mary Wright, Jerome
Young, Fay Young and Anthony Zappia,
Plaintiffs-Appellants-Petitioners,
v.
Town of Fulton,
Defendant-Respondent.

REVIEW OF A DECISION OF THE COURT OF APPEALS
2000 WI App 268
Reported at: 240 Wis. 2d 131, 621 N.W.2d 643
(Published)

OPINION FILED: March 26, 2002
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: October 2, 2001

SOURCE OF APPEAL:
COURT: Circuit
COUNTY: Rock-Janesville
JUDGE: Michael J. Byron

JUSTICES:
CONCURRED: ABRAHAMSON, C.J., concurs (opinion filed).
SYKES, J., joins concurrence.
DISSENTED:
NOT PARTICIPATING:

ATTORNEYS:

For the plaintiffs-appellants-petitioners there were briefs
by Dianne M. Soffa, Russell W. Devitt and Soffa & Devitt, LLC,
Whitewater, and oral argument by Russell W. Devitt.

For the defendant-respondent there was a brief by Robert
Horowitz, Meg Vergeront and Stafford Rosenbaum LLP, Madison, and
oral argument by Robert Horowitz.

2002 WI 29

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 99-2466

(L.C. No. 96 CV 303J, 97 CV 438J, 98 CV 422)

STATE OF WISCONSIN

IN SUPREME COURT

Richard Ahrens, Shirley Ahrens, Robert Albright, Shirley Albright, Barbara Allen, Nicholas Allen, Dolores Allen, June Ann Amell, Arnold Anderson, Loraine Anderson, John Augustyniak, Margaret Augustyniak, Milton Bates, Helen Bates, Robert Bauer, Gail Bauer, David Bear, Karen Bear, Michael Bellettiere, Pat Bellettiere, Otto Benz, Glen Black, Melaine Black, Edward Blanchard, Jane Blanchard, Kathy Blazyk, Nordine Bolstad, Nancy Bolstad, Jim Booker, Diana Booker, Virginia Boswell, Robert Boszko, Kathy Boszko, Donald Brake, Mary Brake, Albert Brueggeman, Mary Ann Brueggeman, Fred Burrow, Rosemary Burrow, Wallace Campbell, Donald Childers, Robert Clark, Ilona Clark, Gary Curry, Sandra Curry, Donald Dahlke, Lyla Dahlke, Emery DeRosier, Luvern DeRosier, M.A. DiMarcantonio, Thomas Draws, Vernon Duessing, Dean Eveland, Donna Eveland, Lewis Farmer, Kathleen Farmer, Louis Finger, Loretta Finger, Robert Fisher, Jean Fisher, Mike Foley, Mary Lou Foley, Charles Foudray, Milly Foudray, Diane Franke, Bill Neff, Wayne Frantz, Janet Frantz, John Fritz, Paul Gauer, Sandy Gauer, Gene Gehrt, Jane Gehrt, Antonino Giardina, Rose Giardina, Frank Giardina, Donald Ginchoff, Patricia Ginchoff, Sandra Goff, Kenneth Gray, Jane Gray, Richard Gross, Jane Gross, Wilbur Groth, Lois Groth, Caroline Gruner, Joe Gruspier, Alice Gruspier, Donna Gurholt,

FILED

MAR 26, 2002

Cornelia G. Clark
Clerk of Supreme Court

• • • (additional names removed due to number
of names as petitioners.)

Owners-Appellants-
Petitioners,

v.

Town of Fulton,

Defendant-Respondent.

REVIEW of a decision of the Court of Appeals. *Affirmed.*

¶1 WILLIAM A. BABLITCH, J. Richard Ahrens and approximately 136 to 138 other mobile home owners (owners)¹ appeal from a court of appeals' decision that held that, with respect to all but one of the twenty representative owners chosen to represent the entire class, their mobile homes were appropriately taxed as real property, as opposed to personal property as the owners contend. The statutes require that a mobile home must be "set upon a foundation" before it can be taxed as real property. We conclude that all of the representative owners' mobile homes were "set upon a foundation" within the meaning of the statute.

I

¶2 This case involves the classification of mobile homes for property tax purposes. The law pertaining to such

¹ The parties use both 136 and 138 as the total number of mobile home owners in this action. The precise number is not relevant to this appeal.

classification is important to note at the outset. "Mobile homes" are defined under Wis. Stat. § 66.058(1)(d)(1997-98)² as follows:

"Mobile home" is that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

For property tax purposes, such mobile homes are classified into two categories: improvements to real property and personal property. Wisconsin Stat. § 70.043 sets forth the criteria for each classification, stating:

70.043 Mobile homes. (1) A mobile home as defined in s. 66.058, is an improvement to real property if it is connected to utilities and is set upon a foundation upon land which is owned by the mobile home owner. In this section, a mobile home is "set upon a foundation" if it is off its wheels and is set upon some other support.

(2) A mobile home, as defined in s. 66.058, is personal property if the land upon which it is located is not owned by the mobile home owner or if the mobile home is not set upon a foundation or connected to utilities.

Wis. Stat. § 70.043(1)-(2). For purposes of this case, it is important to note that Wis. Stat. § 70.111(19)(b) provides an exemption from taxation for some mobile homes that are classified as personal property. This statute specifically provides:

² All subsequent references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

70.111 Personal property exempted from taxation. The property described in this section is exempted from general property taxes:

.....
(19) Camping Trailers and Recreational Mobile Homes. (a) Camping trailers as defined in s. 340.01(6m).

(b) Mobile homes, as defined in s. 66.058, that are no larger than 400 square feet and that are used primarily as temporary living quarters for recreational, camping, travel or seasonal purposes.

Wis. Stat. § 70.111(19)(b). In this case, all of the owners' mobile homes were classified as improvements to real property.

¶3 The owners brought actions pursuant to Wis. Stat. § 74.35, which permits taxpayers to recover any unlawful taxes. This statute provides the following definition for an "unlawful tax":

74.35 Recovery of unlawful taxes. (1) Definitions. In this section "unlawful tax" means a general property tax with respect to which one or more errors specified in s. 74.33(1)(a) to (f) were made. "Unlawful tax" does not include a tax in respect to which the alleged defect is solely that the assessor placed a valuation on the property that is excessive.

Wis. Stat. § 74.35(1). The owners claimed that errors occurred under Wis. Stat. § 74.33(1)(a), (b), or (c). This statute provides:

74.33 Sharing and charging back of taxes due to palpable errors. (1) Grounds. After the tax roll has been delivered to the treasurer of the taxation district under s. 74.03, the governing body of the taxation district may refund or rescind in whole or in part any general property tax shown in the tax roll, including agreed-upon interest, if:

(a) A clerical error has been made in the description of the property or in the computation of the tax.

(b) The assessment included real property improvements which did not exist on the date under s. 70.10 for making the assessment.

(c) The property is exempt by law from taxation, except as provided under sub. (2).

Wis. Stat. § 74.33(1)(a)-(c). With this legal background, we next discuss the facts and procedural history of this case.

II

¶4 The owners each own a mobile home located on individually-owned lots in a real estate development known as Wisconsin's Rock River Leisure Estates in the Town of Fulton (Town) in Rock County. For the 1995, 1996, and 1997 tax years, the Town taxed the mobile homes as improvements to real property, as defined under Wis. Stat. § 70.043(1). For each tax year, the owners paid the taxes and then filed claims with the Town pursuant to Wis. Stat. § 74.35(2), which permits property taxpayers to seek recovery of unlawful taxes from the taxation district that collected the tax. The Town disallowed these claims.

¶5 For each tax year, the owners also filed separate actions in Rock County Circuit Court to recover the amount of the claim not allowed, as permitted under Wis. Stat. § 74.35(3)(d). In each action, the owners claimed that their homes should have been exempt personal property under Wis. Stat. § 70.111(19)(b) and that taxation of their homes as

improvements to real property constituted an error under Wis. Stat. § 74.33(1), requiring a finding that an unlawful tax had been levied. The circuit court consolidated the actions by agreement of the parties. The parties then agreed that 20 of the approximately 138 owners would serve as representative owners and would stipulate to certain facts.³

¶6 The parties stipulated to the following relevant facts regarding the 20 representative owners. Each owner has on his or her lot a "basic unit," which consisted of "a structure that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating, and living quarters." This definition is basically identical to the definition of "mobile home" under Wis. Stat. § 66.058(1)(d). The floor areas of each of these "basic units" ranges from 372 to 420 square feet. Each basic unit still has its wheels attached and is connected to utilities. All but four of the units have their weight at least partially on their wheels and partially on some form of stabilizer, such as cement blocks, cinder blocks, or screw jacks. Three units have their weight

³ The representative owners included Richard and Shirley Ahrens, Robert and Gail Bauer, David and Karen Bear, Albert and Mary Ann Brueggeman, Nordine and Nancy Bolstad, Robert and Kathy Boszko, Donald and Lila Dahlke, Emery and Luvern Derosier, Dean and Donna Eveland, Mary Lou and Michael Foley, Wilbur and Lois Groth, Terry and Susan Hurm, Donald and Helen Heidner, Dean and Virginia Huffstutler, Timothy and Christin Liv, Marion and Grace Obukowicz, James and Violet Rother, Joseph Rupperech, Hugh and Elizabeth Ryan, and Charles and Josephine Ulam.

completely supported by stabilizers. One unit has no stabilizers and is supported only by its wheels. Each owner also has additional structures—including decks, screen rooms, porches, and sheds—on their lot that are either attached to or freestanding from the basic unit. Finally, two of the owners reside in their homes for 12 months of the year; three of them for seven months; three of them for six months; one for five and one-half months; one for three months; and the rest for two months of the year or less.

¶7 The Town moved for summary judgment, and the circuit court, the Honorable Michael J. Byron, granted the Town partial summary judgment. In its decision, the court examined two issues. First, it examined whether the representative owners' mobile homes were properly taxed as improvements to real property. In its analysis, the court noted that, because the parties had stipulated that the homes were connected to utilities and situated on land owned by the mobile home owner, the only question was whether the homes were "set upon a foundation." Under this requirement, "a mobile home is 'set upon a foundation' if it is off its wheels and is set upon some other support." Wis. Stat. § 70.043(1). The court found the terms "off its wheels" and "set upon some other support" ambiguous and construed the statute to mean that a mobile home is an improvement to real property when the majority of the weight of the home is borne by some support other than its wheels. From this interpretation, the court concluded that there were some of the representative owners' homes that were

improperly assessed and taxed as improvements to real property. The court, however, regarded any error in classification as immaterial, concluding that, even if the property had been appraised as personal property, the value of the tax would have been the same.

¶8 The second issue that the court examined was whether any of the representative owners' mobile homes qualified for the personal property tax exemption under Wis. Stat. § 70.111(19)(b). In its analysis, the court concluded that all additional structures—even freestanding structures that were unattached to the basic unit—must be considered in determining whether the owners met the 400 square foot limitation under the statute. When considering the additional structures on the lots, the court concluded that the representative owners' homes were all over 400 square feet and that therefore they would not qualify for the personal property tax exemption.

¶9 Following this decision, the circuit court directed the parties to submit additional briefs regarding the effect of the court's previous decision on the remaining owners. After briefs were submitted, the court issued a supplemental decision and order. In the decision, the court analyzed whether the owners had established a cause of action for unlawful taxes, particularly whether any errors under Wis. Stat. § 74.33(1)(a), (b) and (c) had occurred, including whether the taxed property was exempt by law from taxation. The court concluded that the owners had established no cause of action for the refund of

unlawful taxes, and as a result, the court dismissed all of the owners' actions.

¶10 In a split decision, the court of appeals affirmed in part, reversed in part, and remanded the cause with directions. Ahrens v. Town of Fulton, 2000 WI App 268, ¶1, 240 Wis. 2d 124, 621 N.W.2d 643. Like the circuit court, the court of appeals began its analysis with the question of whether the mobile homes were "set upon a foundation." Id. at ¶9. Like the circuit court, the court also found that the statutory definition of "set upon a foundation," requiring a mobile home to be "off its wheels" and "set upon some other support" was ambiguous. Id. at ¶11. The court of appeals, however, departed from the circuit court by rejecting the circuit court's interpretation of these terms to require a "majority of the weight" of the mobile home to be off its wheels before it would be classified as real property. Id. at ¶12. Instead, the court of appeals held that the legislative history of Wis. Stat. § 70.043(1) required a finding that a mobile home is "set upon a foundation" when any part of its weight is off its wheels and set upon some other support. Id. at ¶¶15-16.

¶11 Applying this test, the court concluded that all but one of the representative mobile homes were properly assessed and taxed as improvements to real property "because they rest[ed], in whole or in part, on supports other than their wheels." Id. at ¶17. Thus, the court affirmed the circuit court's dismissal of these actions. Id. at ¶33. With respect to the remaining mobile home, the court concluded that any tax

against it would be unlawful, pursuant to Wis. Stat. §§ 74.33 and 74.35, only if the home was exempt from taxation under Wis. Stat. § 70.111(19)(b). Id. at ¶21. In its exemption analysis, the court departed from the circuit court by concluding that freestanding additional structures must not be considered in figuring whether the 400 square feet limitation was exceeded. Id. at ¶23. Despite this conclusion, the court still affirmed the circuit court's decision that the remaining mobile home was not exempt because it exceeded 400 square feet in size, and therefore, it dismissed the action. Id. at ¶¶25, 33. With respect to the nonrepresentative owners, the court reversed and remanded to allow the owners to show that their mobile homes were personal property and exempt in light of the conclusions reached by the court. Id. at ¶31. The court rejected the owners' claims that it and the circuit court violated the owners' rights to due process and equal protection and usurped a legislative function by allegedly holding the owners liable for personal property taxes that were never levied on the homes by the Town. Id. at ¶¶26-29.

¶12 The owners now argue that both the circuit court and the court of appeals erred in its interpretation of Wis. Stat. § 70.043(1). They instead rely on the interpretation provided by Judge Dykman in his dissent. See id. at ¶¶34-45 (Dykman, J., dissenting). Dykman concluded that the term "off its wheels" is not ambiguous; "off its wheels" means that there is space between the tires and the ground. Id. at ¶¶41-42 (Dykman, J., dissenting). The owners urge us to adopt this

interpretation and to conclude that, for those representative owners whose mobile homes are not "off their wheels" under this definition—and are therefore not real property—the levy of real property taxes should be held void. The owners then assert that the taxes against these homes should be refunded and the actions of the nonrepresentative owners should be remanded for further proceedings on whether their mobile homes were properly taxed as improvements to real property.

¶13 We conclude, however, that the interpretation of Wis. Stat. § 70.043(1) put forth by the owners and Judge Dykman should not be followed. Instead, with some modification, we adopt the interpretation of the court of appeals. We hold that a mobile home is "set upon a foundation" when the home is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels. This definition rests on a distinction between temporary and permanent, recognizing that the legislature intended that the permanency of the mobile home was important in making a distinction between real and personal property. We conclude that the legislature intended that anything more than a transient location would be permanent and, accordingly, an improvement to real property.

III

¶14 The primary question in this case is whether the Town properly classified and taxed the owners' mobile homes as improvements to real property. To answer this question, we must interpret Wis. Stat. § 70.043(1) and determine when a mobile home is properly regarded as an improvement to real property.

If we determine that the Town improperly classified and taxed the homes, the next question is whether this misclassification error provides a basis for recovery under Wis. Stat. § 74.35.

¶15 We review the circuit court's grant of summary judgment. We review motions for summary judgment using the same methodology as the circuit court. Meyer v. Sch. Dist. of Colby, 226 Wis. 2d 704, 708, 595 N.W.2d 339 (1999). Wisconsin Stat. § 802.08(2) sets forth this methodology, stating that summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Resolution of this case also requires an interpretation of several statutes. "Interpretation of a statute and application of a statute to undisputed facts are ordinarily questions of law that this court considers independent of the decisions of the circuit court and court of appeals, but benefiting from their analyses." Meyer, 226 Wis. 2d at 708.

¶16 "Our sole purpose when interpreting a statute is to discern the intent of the legislature." United Methodist Church, Inc. v. Culver, 2001 WI 55, ¶26, 243 Wis. 2d 394, 627 N.W.2d 469. To this end, we begin with the language of the statute. Id. "Courts should resolve statutory ambiguities so as to advance the legislature's purpose in enacting the legislation." Id.

¶17 Mobile homes in Wisconsin may be subject to property tax as real or personal property, may be subject to monthly mobile home parking fees, or may be exempt from property taxation and parking fees. See Wis. Stat. §§ 66.058(3)(c), 70.043, 70.111(19)(b), 70.112(7). In determining how or if a unit will be taxed, we first examine whether the unit meets the definition of "mobile home" under § 66.058(1)(d). The parties have so stipulated.

¶18 We next examine Wis. Stat. § 70.043 to determine whether each "mobile home" is personal property or an improvement to real property. The parties stipulated that the mobile homes at issue are located on property owned by the mobile home owner and are connected to utilities. Thus, the only question remaining on whether the homes are improvements to real property is whether these homes are "set upon a foundation."

¶19 Again, "a mobile home is 'set upon a foundation' when it is off its wheels and is set upon some other support." Wis. Stat. § 70.043(1). We noted above that the circuit court and the court of appeals construed this phrase in different ways. We find the discussion by the circuit court and the court of appeals, both the majority opinion and the dissent, very helpful to our analysis.

¶20 The court of appeals discussed the different possible interpretations of this phrase as follows:

This language could mean, as the owners maintain, that in order to be deemed an improvement to real property,

a mobile home must have its wheels physically removed, or, at a minimum, that the entire weight of the mobile home must rest on something other than its wheels. Or, it could mean, as the Town argues, that a mobile home is "off its wheels and . . . set upon some other support" whenever any part of its weight is borne by [something] other than its wheels. Finally, it could also mean, as the trial court concluded, that what is required is that a majority of the weight of the mobile home is borne by some support other than its wheels.

Ahrens, 2000 WI App 268, ¶11. Indeed, these different reasonable interpretations dictate that we look to extrinsic aids to interpret the statute and seek to advance the legislature's purpose in our interpretation of the statute.

¶21 We look specifically to the legislative history of 1983 Wis. Act 342, which enacted Wis. Stat. § 70.043. Part of this legislative history includes a Legislative Council report, which discussed various legislative proposals on mobile home taxation that were considered by the Legislative Council Special Committee on Mobile Home Taxation and Zoning. This report, which was discussed by both the circuit court and the court of appeals, provides significant evidence that the legislature adopted the current test under § 70.043(1) to address core problems that were present with the previous statutory test. 20 Wisconsin Legislative Council, Legislation Relating to Mobile Home Taxation and Zoning 3 (1983).

¶22 The previous test stated that a mobile home would be subject to taxation as real property if the value of improvements (additions, attachments, annexes, foundations, and appurtenances) to the mobile home equaled 50 percent or more of

the assessed value of the mobile home. Id. (discussing Wis. Stat. § 66.058(1)(e) (1981-82)). The problems with this test were (1) that it was difficult and time-consuming for the assessors to apply and (2) that it was "not an accurate indicator of whether a given mobile home ha[d] taken on the character of a real estate improvement and, therefore, should be subject to property taxation as is conventional housing." Id. The test that has been adopted under Wis. Stat. § 70.043(1) was therefore proposed.

¶23 Before discussing the test, however, the report revisited the reasons for distinguishing real and personal property for property tax purposes, stating:

The primary rationale under the property tax system for distinguishing between real and personal property is that personal property is more mobile than real property. It is easier to enforce and collect property taxes which are levied upon real property than taxes which are levied upon personal property. Therefore, assessment procedures, payment due dates and the remedies which are available to collect property taxes differ according to whether the property is classified as real property or as personal property.

20 Wisconsin Legislative Council, Legislation Relating to Mobile Home Taxation and Zoning at 3-4 (emphasis added). The report then discussed the Committee's proposal for a new test, stating:

The Committee concluded that a better indicator than the "50%" test of when a given mobile home has taken on the character of real property is if the mobile home is hooked up to utilities and is set upon a foundation on land which is owned by the mobile home owner. This is the same test as is used by the Department of Revenue (DOR) to classify mobile homes as real property, for purposes of exempting the sale

of these mobile homes from the sales tax [s. Tax 11.88, Wis. Adm. Code]. The Committee believed that, under these circumstances, the mobile home is sufficiently permanent that it should be taxed as is conventional housing.

Id. at 4 (second emphasis added).⁴

¶24 Thus, from this report, it is clear that the legislature adopted specific criteria—hooked up to utilities and set upon a foundation on land owned by the mobile home owner—to identify mobile homes that were sufficiently permanent in nature so as to be regarded as improvements to real property. Thus, in interpreting the requirement that a mobile home must be "off its wheels and set upon some other support," our objective must be to incorporate those mobile homes that are "sufficiently permanent in nature." Mobile homes that do not show any signs of permanency and are mobile should fall outside the definition and be regarded as personal property.

¶25 Before arriving at a test, however, it is important to note the owners' objections to the court of appeals' test, which

⁴ The Department of Revenue regulation provided:

Tax 11.88 Mobile homes. (1) Mobile home as personal property vs. realty improvement. A mobile home is personal property if it is located in a mobile home park or other place where the land on which the mobile home is located is not owned by the mobile home owner. A mobile home is a realty improvement if it is permanently affixed to land owned by the owner of the mobile home. It is permanently affixed to the land for sales tax purposes if the mobile home sits on a foundation and is connected to utilities. "On a foundation" means it is off its wheels and sitting on some other support.

Wis. Admin. Code § Tax 11.88(1) (Jan., 1981).

only required some of the weight of the mobile home to be off its wheels before it would be classified as an improvement to real property. Echoing Judge Dykman's dissent, their primary objection, with which we agree, is that the test effectively eliminated the possibility that a mobile home—one that is connected to utilities and is situated on the mobile home owner's real property—will ever qualify as personal property or be exempt from taxation under Wis. Stat. § 70.111(19)(b) because, they assert, a mobile home never rests entirely on its wheels. They contend that, if a mobile home is never entirely on its wheels, it will always be classified as an improvement to real property under the court of appeals' test when it is connected to utilities and on the owner's property. The exemption then is nullified for certain mobile homes that may otherwise qualify for the exemption. Judge Dykman made this observation in his dissent, stating:

What the majority has concluded is that no mobile home located on its owner's real estate can be exempted from taxation unless the owner disconnects the mobile home from its utilities. The majority reaches this conclusion because it requires one hundred percent of the mobile home's weight to be carried on its wheels before the exemption [under Wis. Stat. § 70.111(19)(b)] applies. But no such mobile home exists. Under Wis. Stat. § 348.10(5)(c), all mobile homes must have at least thirty-five pounds of their weight rest on something other than their wheels, and it is that thirty-five pounds that the majority uses to disqualify all 400-square-foot or less, landowner-occupied, utility-connected mobile homes from personal property tax-exempt status.

The legislature must have intended to exempt some mobile homes from personal property taxes when it

enacted Wis. Stat. § 70.111(19)(b). The legislature was aware of Wis. Stat. § 70.043(1) and the significance of the distinction between mobile homes that are personal property and mobile homes that are real estate. Had the legislature wanted to tax small utility-connected mobile homes located on their owners' real estate, it could have easily done so in § 70.111(19). But it did not. The only rational explanation of the exemption is that it applies to all small qualifying mobile homes located on their owners' real estate.

Ahrens, 2000 WI App 268, ¶¶38-39 (Dykman, J., dissenting).

¶26 We agree with Judge Dykman's discussion. The owners argue that we should adopt the test put forth by Judge Dykman, that is, that a mobile home is "set upon a foundation" only when all of its weight is taken off its wheels and placed upon some type of support. This interpretation, the owners assert, preserves the statutory exemption under Wis. Stat. § 70.111(19)(b) because, unlike the court of appeals' test, it allows for some mobile homes, which are connected to utilities and situated on the owner's property, to still qualify as personal property. They argue that Judge Dykman's test ensures that only those mobile homes that are similar to customary homes are taxed and provides a test that is easy for assessors to apply. We disagree with this formulation because it fails to take into account the legislative intent to reach only those mobile homes that have taken on a permanency vis-a-vis the real estate.

¶27 We recognize that any interpretation of Wis. Stat. § 70.043(1) should give effect to the legislature's intent to create an exemption for some mobile homes under

Wis. Stat. § 70.111(19)(b). We note, however, that harmonizing these statutes is difficult because of the different criteria examined under both statutes. Specifically, under § 70.043, the location of the mobile home (on the owner's property), its utility hook-up, and its foundation are examined to determine whether it is real or personal property. Under § 70.111(19)(b), the mobile home's size (no larger than 400 square feet) and the intended use of the mobile home are examined. The different criteria create problems because some mobile homes may qualify as both real property and exempt personal property. A reevaluation of the criteria under these statutes by the legislature may be appropriate to ensure that the statutes are given their intended effect.

¶28 Nevertheless, "[w]hen confronted with a statutory inconsistency of this nature, it is the duty of this court, when possible, to construe statutes on the same subject matter in a manner as to harmonize these provisions in order to give each full force and effect." Glinski v. Sheldon, 88 Wis. 2d 509, 519, 276 N.W.2d 815 (1979).

¶29 We conclude that Wis. Stat. § 70.043(1) requires the following: a mobile home is an improvement to real property when the home is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels. As mentioned above, this definition rests on a distinction between temporary and permanent, recognizing that the legislature intended that permanency of the structure was important in distinguishing between real property and personal

property. We therefore reject the test put forth by Judge Dykman, which requires the mobile home to be completely off its wheels before it is considered an improvement to real property. In this respect, we agree with the court of appeals, which stated:

To conclude that a mobile home may not be taxed as realty until its last ounce of weight has been removed from its wheels would thwart the legislature's goal of treating mobile homes which have "taken on the character of a real estate improvement" the same as "conventional housing" for property taxation purposes.

Ahrens, 2000 WI App 268 at ¶14.

¶30 We decline to define "temporary" in terms of a specific number of days, concluding that it is a responsibility better left to the legislature or the state department of revenue. Suffice to say, a mobile home is not taxable as real property if its location is temporary and for a limited time. Mobile homes that are truly "mobile," that is, transitory and moving from place to place with no intent by the owner to permanently place them in one location, would certainly fall under that category. Conversely, mobile homes placed at a given location for more than a very limited time would properly be taxed as realty.

¶31 The statute specifically requires "other means of support." However, it does not specifically require that the support be permanently affixed to the property or the mobile home. Instead, it only requires that the home be set upon some other "support" before it will be taxed as real property. The support mechanisms utilized by the owners in this case included

chócks, basic stabilizing jacks and levelers, and blocks. The owner's use of these items for more than a temporary basis support the conclusion that the support system is sufficiently permanent.⁵ When the mobile home has remained off its wheels and on the property with the same support system for more than a temporary period of time, it reflects the owner's intent to treat the mobile home as something other than personal property.

¶32 Thus, under this interpretation, mobile homes—even if they are connected to utilities and located on the mobile home owner's property—may constitute personal property and still qualify for the exemption under Wis. Stat. § 70.111(19)(b) even though they may have some weight off their wheels. Thus, any

⁵ The owners argue that a mobile home's foundation must be something that is underground to be sufficiently permanent. However, the history of Tax 11.88—the regulation upon which Wis. Stat. § 70.043 is based—suggests that the regulation was written without such a requirement in mind. In particular, a memorandum discussing a hearing on the proposed regulation state:

Members of the [Assembly Revenue] Committee expressed concern that local assessors in some areas assess some mobile homes as personal property even though they are on some sort of foundation, such as cement blocks. The Committee asked that we define "foundation" as used in rule 11.88(1) and that this definition be identical to the one used by the Department for property taxation.

Memorandum from K. Kaspar, Jr., State of Wisconsin Department of Revenue to J.E. DeYoung (June 20, 1980). The definition of "set upon a foundation" was drafted shortly thereafter. The idea that cement blocks could constitute a foundation for real property suggests that the definition was intended to include various means of support, not just those that are underground.

concerns that this personal property exemption has been completely nullified by our interpretation are without merit.

¶33 We acknowledge that the statutes in their present form are nearly irreconcilable. Both the majority and the dissent did yeoman work with that which the legislature gave them. However, both fail to take into account co-existing statutes. The court of appeals' majority opinion leads to a nullification of the exemption for personal property created under Wis. Stat. § 70.111(19). Judge Dykman's test, for the most part, would tax all mobile homes as personal property, contrary to the legislative intent of Wis. Stat. § 70.043(1). For this reason, we conclude that our test, which follows the legislature's clear intent, must be adopted. As we have noted, "when a legislative mandate is 'clearly expressed and there is no warrant for alternative construction, a court may not impose its view on what the law should be.'" Ervin v. City of Kenosha, 159 Wis. 2d 464, 478, 464 N.W.2d 654 (1991) (citation omitted). We have proceeded in this manner. Nevertheless, given the problems in terms of assessment, the legislature should pay immediate attention to the statutes at issue in this case. See Wis. Stat. §§ 13.83(1)(c)1 and 13.93(2)(d) (1999-2000).

¶34 Having enumerated the test, we now apply it to the facts of this case. "Where the facts are undisputed, a question of whether a structure is statutorily real or personal property is a question of law." Pulsfus Poultry Farms v. Town of Leeds, 149 Wis. 2d 797, 811, 440 N.W.2d 329 (1989). In this case, the stipulated facts reveal that 19 of the 20 representative owners

have "some form of stabilizer under the unit, whether it be concrete blocks, cinder blocks or screw jacks" The use of these support mechanisms effectively took some of the weight of the home off its wheels. The remaining mobile home, which was owned by Robert and Gail Bauer, did not have any stabilizers under it. This mobile home did, however, have additional structures that were caulked to the unit. The additional structures included a 385 square foot screened-in room and a 104 square foot porch. Both structures rested on footings. The Town asserts that the unambiguous text of the statute requires that the Bauers' physically attached addition to their basic unit must be considered for purposes of determining whether the Bauers' mobile home is set upon a foundation. The Town argues that, when this addition is considered, the Bauers' mobile home would not be completely supported by its wheels. We agree with this interpretation.

¶35 The court of appeals incorrectly rejected this interpretation, stating:

[W]hen defining what it means for a mobile home to be "set upon a foundation," § 70.043(1) requires the mobile home to be "off its wheels" (emphasis added). It makes no sense to talk about an attached deck or porch being "off its wheels." The plain implication of this language is that the legislature was referring to the "basic unit," which is the only structure that would once have been on wheels.

Ahrens, 2000 WI App 268, ¶18. Under the definition of mobile home, however, such additions or attachments are considered as part of the mobile home itself. As a result, if this part of

the mobile home is resting on some other means of support than the wheels of the basic unit, the mobile home itself is being supported by means other than the wheels. Thus, on the whole, all twenty of the representative owners had their mobile homes off their wheels and on some other support. The question then remains for what period of time these homes were off their wheels.

¶36 On this issue, the representative owners stipulated that they have their mobile homes located on their lots. Similarly, in each of the complaints, the owners admitted that they have their mobile homes located on their lots. These admissions suggest that the mobile homes were situated on the lots and were not moved. There is nothing in the record to suggest otherwise. The only variable with respect to time spent on the lot is the time each owner spends residing in his or her mobile home.⁶ Even this information shows that the mobile homes were located on the property for more than a temporary basis. These facts lead to the conclusion that these homes were properly classified and taxed as improvements to real property because the homes were supported by means other than the wheels for more than a temporary basis. For this reason, we need not

⁶ With respect to the representative owners, the record reveals that the Bears, Lot 143, were on their lot for 52 days; the Brueggemans, Lot 82, for 24 days; the Boszkos, Lot 556, for 30 days; the Dahlkes, Lot 59, for 40 days; the Groths, Lot 377, for 4 months; the Heidners, Lot 419, for 40 days; the Obukowicz, Lot 69, for 72 days; and the Ryans, Lot 97, for 56 days.

address whether the taxes levied against these representative owners' mobile homes were unlawful under Wis. Stat. § 74.35. Accordingly, we affirm the court of appeals' decision, which upheld the circuit court's judgment of dismissal on the representative owners' actions.

IV

¶37 With respect to the disposition of the claims of the nonrepresentative owners, we conclude that remand to the circuit court is appropriate to provide a proper evidentiary determination on whether each of these owners fall within the definition of improvements to real property, as it has been defined in this opinion. Accordingly, we affirm the court of appeals' decision in this respect and remand the actions of the remaining owners for further evidentiary proceedings.

V

¶38 In sum, we affirm the court of appeals' decision. For the representative owners, dismissal is appropriate because the Town properly assessed and taxed these mobile homes as improvements to real property. For the nonrepresentative owners, we remand to the circuit court for further proceedings to determine whether the mobile homes of these owners were properly classified as improvements to real property in light of this opinion.

By the Court.—The decision of the courts of appeals is affirmed.

¶39 SHIRLEY S. ABRAHAMSON, CHIEF JUSTICE (concurring).

I agree with the majority opinion that Wis. Stat. § 70.043 needs legislative attention. No judicial definition of "set upon a foundation" or "off its wheels" or "set upon some other support" is free from difficulties. Nevertheless, in choosing among several unsatisfactory alternatives set forth by the courts, I would adopt the test set forth in the majority opinion in the court of appeals because I think it presents the fewest problems in application. I would not further complicate the issue, as the majority opinion does, by adding the concepts of "temporary" (majority op. at ¶30), "temporary and for a limited time" (majority op. at ¶30), "very limited time" (majority op. at ¶30), or "temporary basis" (majority op. at ¶31) in interpreting the statute.

¶40 Moreover, I do not understand how the majority opinion can apply its new test to defeat the claims of 136 plaintiffs without giving these plaintiffs an opportunity to present evidence under the new test.

¶41 I am authorized to state that Justice DIANE S. SYKES joins this opinion.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1392/1

JK:.....

JK RMR

in 1-9-03

SOON

ju

1 AN ACT ...; relating to: the personal property tax exemption for recreational
2 mobile homes.

Analysis by the Legislative Reference Bureau

Under current law, a recreational mobile home is exempt from the personal property tax if the mobile home is no larger than 400 square feet and is used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes.

Under this bill, a recreational mobile home is exempt from the personal property tax if the mobile home has a gross trailer area not exceeding 400 square feet in the set-up mode; it is built on a single chassis mounted on wheels; it is certified by the manufacturer as complying with the American National Standards Institute code for such homes; and it is used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes. In addition, any attachment to a recreational mobile home that is exempt from the personal property tax, other than another recreational mobile home, is exempt from the personal property tax, if the attachment is no larger than 400 square feet.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 70.111 (19) (b) of the statutes is amended to read:



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

March 19, 2003

MEMORANDUM

To: Representative Albers

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2003 AB 127** (LRB-1392/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

March 19, 2003

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 127 – Property Tax Treatment of Recreational Mobile Homes

The department has several concerns related to the bill.

First, the bill exempts mobile homes that have a gross trailer area not exceeding 400 square feet in set-up mode, that are built on a single chassis mounted on wheels and that comply with ANSI Code 119.5. It is unclear if the size limit refers to the exterior gross trailer area. Also, "in set-up mode" is not defined. While these specifications may be covered in ANSI Code 119.5, the author may wish to clarify these terms to ensure uniform and accurate assessments.

Second, the bill exempts any attachment to a mobile home other than another mobile home that is no larger than 400 square feet. Does this mean the sum total of all attachments or each individual attachment may not exceed 400 square feet?

Third, the department is concerned that the initial applicability of January 1, 2003 provides insufficient time for assessors to incorporate the changes. The author may wish to consider a January 1, 2004 initial applicability for ease of administration.

If you have questions regarding this technical memorandum, please contact Rebecca Boldt at 266-6785.