

GARY L. AND ERNESTINE S. RICE,)
)
 Petitioners)
)
 v.)
)
)
 CITY OF BELFAST,)
)
 Respondent)

DECISION

This matter comes before the State Board of Property Tax Review (hereinafter "Board") on appeal by Gary L. and Ernestine S. Rice from the denial by the City of Belfast of their request for Open Space status under the Farm and Open Space Tax Law, 36 M.R.S.A. §§1101-1121.

Hearing was held in Augusta, Maine, on October 24, 1991, before four members of the Board, constituting a quorum. The petitioners appeared on their own behalf. Representing the City of Belfast was William S. Kelly, Esq. By agreement, this petition was heard in conjunction with the petition of Gilbert and Deborah Bryant, Docket No. 91-17, being similar properties and located on the same road within one-quarter mile of each other.

The Petitioners filed their Open Space application on or about December 10, 1990, seeking classification of their property as of April 1, 1991. Mr. Galen Salisbury, then Assessor for the City of Belfast, denied their application on February 6, 1991. The Petitioners then filed this appeal, timely, with the Board.

SUMMARY OF EVIDENCE

Mr. Rice testified concerning his property fully describing its different areas. The parcel fronts on Jesse Robbins Road and consists of

a house and barn on 1 acre (not to be classified) and the remaining 11 acres to be classified including gardens, orchards, fields, forest land, a pond and a small stream.

The Rices operate a small, self-service farm stand, offering garden vegetables and berries in season. Wild animals including moose are seen on the property. The pond and stream which are at the rear of the property, are within 300 yards of the Belfast Water District parcel and contribute to the Little River watershed area. This land is posted "No trespassing" but permission to use the land is given to all who ask except those using ATV's (all terrains vehicles). Mr. Rice allows hunters on his land when his permission is sought.

The general area is rural in nature and is quite scenic from the road. However, a nineteen acre parcel, formerly in Tree Growth and directly across the road from this farm, is now being sub-divided into 3-acre lots on which houses are being built. Private individuals have approached Mr. Rice about selling house lots along his frontage on Jesse Robbins Road.

FINDINGS OF FACT

The Board finds that this property meets the following criteria under 36, M.R.S.A. §1100 (3):

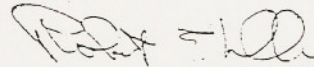
- B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic or archeological character of the area;
- C. The opportunity of the general public to appreciate significant scenic values of the land;
- J. The likelihood that protection of the land will contribute to the

ecological viability of a local, state or national park, nature preserve, wildlife refuge, wilderness area or similar protected area.

Wherefore, the Board concludes, on a vote of 4-0, that these factors are determinative of public benefit and directs the City of Belfast to approve this application for Open Space classification.

Any party wishing to appeal this Decision must file a Petition for Review in the Superior Court within 30 days of receipt of this Decision pursuant to 5 M.R.S.A. §§ 11001-11008.

Dated: November 19, 1991



Robert E. Miller, Chairman
State Board of Property
Tax Review