

4 N.J.Tax 456  
Superior Court of New Jersey  
Appellate Division.

TRAP ROCK INDUSTRIES, INC. and Delaware  
River Land Company, Inc., Plaintiffs-Respondents,  
v.  
TOWNSHIP OF FRANKLIN, (Somerset  
County), Defendant-Appellant.

Submitted May 25, 1982. | Decided June 7, 1982.

### SYNOPSIS

Valuation and discrimination appeal pertaining to property consisting of noncontiguous lots used as quarry was brought. The Tax Court, 4 N.J.Tax 445 determined valuation of property by choosing capitalization rate advocated by both parties, utilizing royalty per net ton valuation method advocated by township's expert, and determining appropriate royalty figure per ton as \$12, not \$20 as advocated by township, and township appealed. The Superior Court, Appellate Division, held that: (1) evidence supported tax court valuation; and (2) township was not entitled to mistrial due to alleged misstatement between taxpayer's answers to interrogatories and testimony of taxpayer's expert.

Affirmed.

\*457 Before Judges MATTHEWS and PETRELLA.

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### Attorneys and Law Firms

*Stanley Cutler*, for appellant.

*Warren, Goldberg & Berman*, for respondents (*Robert A. Gladstone* and *Peter A. Buchsbaum*, on the brief).

### Opinion

PER CURIAM.

This is a tax case in which defendant township appeals claiming that the judgment of the Tax Court, 4 N.J.Tax 445, is erroneous in its valuation in that there is insufficient evidence to support it.

1 As the taxpayer points out, Judge Conley carefully stated the bases upon which he rendered his decision. For example, he chose a capitalization rate of 10% which was advocated by both parties; he utilized a royalty per net ton valuation method which was advocated by the municipality's expert; he found the \*458 testimony in support of the municipality's 100% location premium to be "quite weak," and he determined that the appropriate royalty figure per ton was \$12, not \$20 as advocated by the township.

2 The second point is almost equally meritless. The township sought a mistrial because of an alleged misstatement between plaintiff's answers to interrogatories and testimony of the taxpayer's expert.

Affirmed for the reasons expressed by Judge Conley in his letter opinion.

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