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Record No. 6315

In the
Supreme Court of Appeals of Virginia
at Richmond

LAETITIA M. BARBOUR

v.

CITY OF ROANOKE

FROM THE COURT OF LAW AND CHANCERY OF THE CITY
OF ROANOKE

RULE 5:12 BRIEFS

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND.

Record No. 6315

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 10th day of January, 1966.

LAETITIA M. BARBOUR,

Plaintiff in error,

against

CITY OF ROANOKE,

Defendant in error.

From the Court of Law and Chancery of the City of Roanoke
Stanford L. Fellers, Judge

Upon the petition of Laetitia M. Barbour a writ of error is awarded her to an order entered by the Court of Law and Chancery of the City of Roanoke on the 19th day of July, 1965, in a certain proceeding then therein depending entitled, In Re: Assessment of Real Property owned by Laetitia M. Barbour; upon the petitioner, or some one for her, entering into bond with sufficient security before the clerk of the said Court of Law and Chancery in the penalty of three hundred dollars, with condition as the law directs.

RECORD

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Filed in the Clerk's Office the 30th day of December, 1960

Teste: W. H. CARR, Clerk

PATSY TESTERMAN, D. C.

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PETITION

To: The Honorable S. L. Fellers, Judge of the Above-Styled Court:

Your petitioner, Latitia M. Barbour, would respectfully represent unto Your Honor as follows:

(1) That your petitioner is the life tenant in that certain piece of real property known and designated as Lot 4, P. L. Terry Map, situated at 127 Norfolk Avenue, in the City of Roanoke.

(2) That the said real property is designated as Official Number 1010304, on the tax records of the City of Roanoke, and designated as Commissioner and Treasurer's Number 1423; that the said property was valued for assessment by the Board of Assessors of the City of Roanoke at the last quadrennial reassessment of real estate during the year 1958 as follows:

Land	\$4,105
Building	\$3,780
	<hr/>
Total	\$7,885

as will appear on page 48, line 14 of the 1960 land book.

(3) That your petitioner is aggrieved by the said assessment of real estate taxes on the aforesaid property; that two years have not elapsed from the 31st day of December of the year in which the 1958 quadrennial reassessment was made; and that the assessed value of said property is erroneous in that it is not uniform in its application in relation to similarly situated properties.

(4) That said erroneous assessment was not caused by any

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wilful failure or refusal of your petitioner to furnish information pertaining to said property to the appropriate tax authorities.

WHEREFORE, your petitioner prays that the erroneous assessment of real estate taxes aforesaid be corrected by reducing the assessed value to an equitable figure; and that your petitioner may have all such other and further relief, both general and special, as the nature of this cause may require.

LATITIA M. BARBOUR
By STUART A. BARBOUR, JR.
Counsel

STUART A. BARBOUR, JR.
324 Washington Avenue, S. W.
Roanoke, Virginia

Receipt of a copy of the foregoing petition, delivered to the undersigned on January 12, 1962, by counsel for the petitioner, is hereby acknowledged, without in any wise waiving right to question timeliness or sufficiency of such petition or notice:

J. N. Kincanon
Ass't City Atty.

1/12/62 Received Copy of the Foregoing Petition as per above.

Chas. R. Lescure
Comm. of Revenue

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ORDER

Came this day the petitioner, Latitia M. Barbour, by Counsel, and came also the City Attorney for the City of Roanoke and the Commissioner of Revenue of said City; and the City Attorney moved the Court to dismiss the petition for failure of the petitioner to make timely service of the petition or of notice thereof on the City of Roanoke, Counsel for the petitioner having advised the Court that the matter concerns the assessed

value of the property described in the petition as fixed by the 1958 Board of Assessors and it appearing from the papers that, while the petition was filed in the Clerk's Office on the 30th day of December, 1960, service thereof on the City Attorney was not made until January 12, 1961, and that in accepting service of said petition on January 12, 1961, in writing, the City Attorney expressly did not waive the sufficiency of the petition on the timeliness of service; and was argued by Counsel.

WHEREFORE, and the Court considering that this proceeding is not affected by the Rules of Court but is expressly excepted therefrom and that, under the established practice for commencing such proceeding the same is not to be considered completely brought or commenced until notice of the commencement thereof is served on or accepted by said City Attorney or other designated City official, it is, accordingly, so
 page 5] ADJUDGED, ORDERED, and DECREED; and, that granting the aforesaid motion, the Court doth ORDER that this case be and is hereby DISMISSED at the cost of the petitioner; and the Clerk is directed to transfer the papers in the case to the docket of ended cases in this Court.

To the action of the Court in sustaining defendant's motion to dismiss and in the entry of this order of dismissal, Counsel for the petitioner respectfully objects for the reasons argued to the Court, and saves his exceptions thereon.

ENTER :

July 19, 1965

SLF

Judge

I move the entry of this order :
 JAMES N. KINCANON p.d.
 City Attorney for City of Roanoke
 I have seen this order and object
 to its entry on the grounds stated
 to the Court:

STUART A. BARBOUR, JR., p.q.
 Attorney for Petitioner

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MOTION

The petitioner, Laetitia M. Barbour, by Counsel, respectfully moves the Court to set aside that certain Order entered herein on July 16, 1965 upon the ground that said Order was erroneous.

Your said petitioner further respectfully moves the Court to consider the within matter upon its merits after setting aside the aforesaid Order of July 16, 1965.

LAETITIA M. BARBOUR
By Counsel

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Filed 7/26/65 S. L. F. Judge
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NOTICE OF APPEAL AND ASSIGNMENT OF ERROR

Notice is hereby given by Laetitia M. Barbour, petitioner in the above-styled case, that she hereby takes appeal to the Supreme Court of Appeals of Virginia from the adverse final order entered in the above-styled proceeding on the 16th day of July, 1965 and that she will apply to the Supreme Court of Appeals of Virginia for a writ of error.

Petitioner hereby assigns as error that said final order was contrary to the law, as made and provided by the Statutes of this Commonwealth.

Respectfully,
LAETITIA M. BARBOUR
By Counsel

STUART A. BARBOUR, JR., p. q.
418 Second Street, S. W.
Roanoke, Virginia

Received, September 15, 1965 and filed PATSY TESTER-
MAN, Deputy Clerk.

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A Copy—Teste:

H. G. TURNER, Clerk.

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