

## An Alternative Assessment

Attached is an alternative assessment to be presented to the September 2017 Town Meeting. It is very similar to the Assessors report, but it incorporates Auxiliary Dwelling Unit (ADU) land rent in the same way that it has been charged for about 50 years.

Objections to the Assessors proposed method of determining land rent for ADU include:

### A. Legality

1. The Assessors propose a fee for ADU's instead of land rent. This type of fee was ruled illegal in a 1980 Delaware Court decision which stated that the Directors of Ardencroft had disregarded the philosophy of Henry George by imposing additional rent on the structure instead of the land. The court ruled that the choices of previous leaseholders to include rental space for additional domiciles were improvements to the buildings, not the land.
2. These ADU's were accepted when New Castle County zoning was introduced (1954). In 2009 the County and the villages formally zoned only those existing ADU units.
3. In his judgment of the Ardencroft dispute Judge DiSabatino wrote the following:  
"It seems clear enough for summary judgment purposes that what the Board voted to impose was an additional tax upon the rental units themselves rather than the right to a non-conforming use of the property. Clearly this is a tax on the result of human endeavor and repugnant to George's philosophy."  
Ardencroft v. Bernard Troyan October 14 1980  
Court of Common Pleas of the State of Delaware
4. The Assessors proposal for a fixed ADU fee is likely to draw a lawsuit since it falls into the same trap created by the Ardencroft Association in 1980. Note that after losing in court Ardencroft abandoned any charges related to ADU's.

### B. Fairness

1. The Assessors proposed fixed ADU fee does not consider income potential. For instance, is the ADU a small studio in a basement on a highly trafficked street, an apartment overlooking a forested area, or a free standing house, etc? The fixed ADU fee is the only rate or factor proposed that is related to the structure and not intrinsically related to the land being leased.

2. The Assessors proposed fixed ADU fee penalizes leaseholds on smaller lots. A three dwelling unit on a smaller lot shown below in Example C will have a much higher rent, a 32% increase.
  
3. The Assessors proposed fixed ADU system change introduces sudden and significant financial consequences to some leaseholders. This is demonstrated by comparing the methods in these examples, shown here with calculation details on the next pages:  
Example A. A rent increase of 16% in a 10,000 sq. ft. lot with 2 units  
Example B. A rent decrease of 1% in a 30,000 lot with 3 units  
Example C. A rent increase of 32% in a 12,556 sq. ft. lot with 3 dwelling units  
Example D. A rent increase of 74% in a 16,002 sq. ft. lot with 6 dwelling units
  
4. Example D, the Arden Craft Shop Museum, Inc. (ACSM) is a nonprofit owned by the residents of all three Ardens. All income from rentals, contributions from each of the three Arden Town Meetings, and from individual contributions is used to maintain the historic building and the museum located there. The Assessors proposal would increase the land rent 74% from \$3,628 in the past to \$6,471. This increase seems particularly unfair since both county and school governments exempt this building from school and property taxes. Therefore, Arden pays no tax on the structure. Yet the Arden Budget shows that 61% of the ACSM land rent is used by the Trustees to pay taxes and only 39% to pay village expenses. The Arden Craft Shop Museum, Inc. has traditionally paid land rent, although the ACSM does not create any tax expenses for the village.

## **Examples Comparing the Board of Assessors Proposal to the Alternative Report**

Comparison using the Assessors Rate of \$255

### **Example A. A 10,000 sq. ft. lot containing two dwelling units (1 ADU):**

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1815
One ADU charge	\$750
2,884 sq. ft.* \$255 / M sq. ft. * 40% (C Rate)	\$294
<b>Total Land Rent proposed by Board of Assessors</b>	<b>\$2,859</b>

The traditional method by the Alternative Report based on the actual land

7,116 sq. ft. * \$255 /M sq ft. ( A rate)	\$1815
2,884 sq. ft. * 1*\$255/M sq ft. * 80% (B Rate)	588
<b>Total Land Rent proposed by Alternative Assessment</b>	<b>\$2,403</b>

**The total land rent is 16% higher using the Assessors Report**

### **Example B. A 30,000 sq. ft. lot with three dwelling units (2 ADU's) and adjacent to Arden Forest:**

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1815
Two ADU charges (2*\$750)	1,500
22,884 sq. ft.* \$255 / M sq. ft. * 40% (C Rate)	2,334
Base Land Rent	\$5,601
Forest Factor \$5,490 / * 10%	565
<b>Total Land Rent proposed by Board of Assessors</b>	<b>\$6,214</b>

The traditional method based on the actual land

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1,815
7,116 sq. ft. * 2*\$255/M sq. ft. * 80% (B Rate)	2,903
8,652 sq. ft. *\$255/M sq. ft. *40% (C Rate)	883
Total for applying factors	\$5601
Forest Factor \$6504/ *10%	\$560
<b>Total Land Rent proposed by Alternative Assessment</b>	<b>\$6161</b>

**The total land rent is 1% higher for a large lot using the Assessors Report**

**Example C A 12,556 sq. ft. lot with 3 dwelling units (2 ADU's) (Little Arden)**

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1,815
2 ADU charges	1,500
5,549 sq. ft. * \$255/M sq ft (C Rate)	1,102
Total Land Rent proposed by Board of Assessors	<b>\$5,167</b>

The traditional method based on the actual land

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1,815
5 440. Sq ft *\$255/M sq. ft. * 80% (B Rate)	1,110
Total Land Rent proposed by Alternative Assessment	<b>\$2,925</b>

**The total land rent is 77% higher using the Assessors Report.**

**Example D. A 16,002 sq. ft. lot with 6 dwelling units (Craft Shop)**

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1,815
5 ADU charges	3750
8,886 sq. ft. * \$255/M sq ft (C Rate)	906

Total Land Rent proposed by Board of Assessors	\$6,471
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The traditional method based on the actual land

7,116 sq. ft. * \$255 / M sq. ft. (A Rate)	\$1815
8,886 Sq ft *\$255/M sq. ft. * 80%	\$1,813
Total Land Rent proposed by Alternative Assessment	<b>\$3,628</b>

**The total land rent is 78% higher using the Assessors Report**