Opinion 1974

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

JOSEPH M. BURTON
CLERK OF
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

JAN 21 1977

FILED

SURSUM CORDA, INC., a District of Columbia non-profit Corporation Room 910, 1001 Connecticut Avenue, N.W. Washington, D. C. 20036,	*	
Petitioner,	*	
v.	*	Docket No. 2294
DISTRICT OF COLUMBIA,	*	
Respondent.	*	
SURSUM CORDA, INC.,	*	
Petitioner,	*	
v.	*	Docket No. 2336
DISTRICT OF COLUMBIA,	*	
Respondent.	*	

O R D E R

These Actions were filed on March 31, 1975, seeking relief from the assessment of District of Columbia real estate taxes for fiscal years 1975 and 1976 with respect to Lots 248, 249, and 250 in Square 620 together with the improvements thereon. The Petitioner in these matters is the owner and manager of properties involved in these actions, and as such, paid District of Columbia real estate taxes for fiscal years 1975 and 1976 in accordance with assessments of those properties by the District of Columbia. These actions are brought to recover a portion of the monies paid in accordance with the District of Columbia real property tax assessments for fiscal years 1975 and 1976.

Subsequent to the payment of District of Columbia real estate taxes for fiscal years 1975 and 1976, the Petitioner sought relief with respect to those taxes from the Board of Equalization and Review of the Department of Finance and Revenue of the District of Columbia, but that Board denied Petitioner any relief. These actions are an appeal from the Board's determination, and this Court has jurisdiction of these matters under the District of Columbia Code, 1973 Edition, Title 47-2405.

These actions are the current actions relating to the assessment of this real property for real estate taxes. There were similar actions filed with respect to the same properties for fiscal years 1970-1974, inclusive, and these actions have been disposed of by settlement approved by this Court on January 9, 1975. This Court determined after receiving extensive testimony in the previous actions, that it would be necessary for the District of Columbia to use some different method of assessing the properties in question for real estate tax purposes, for the then method of assessing those properties for real estate tax purposes was not fair and equitable to the taxpayer in that it did not use the correct value of the properties. The Court held in those previous cases that such a method of properly assessing the properties in question was the Landry Method.[1/] After the Court made its determination, the parties in the

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1/ See: Assessor's Journal, Volume 10, Number 2, July, 1975, p. 44.

prior actions, which are, of course, the same parties in these cases, adopted that method as a basis for settlement of the prior actions.

In the instant actions, the parties are willing to dispose of this matter on the basis of the dispositions in the prior cases, with but one difficulty involved. The question arises as to who shall determine what items and what amounts are taken into consideration for the purpose of determining expenses and therefore income as defined for purposes of real estate tax assessment for the type of housing involved in these actions. The Respondent has raised some question as to whether some items of expenses actually incurred and paid by the Petitioner and approved by the Department of Housing and Urban Development should be allowed as expenses in determining the income derived value of the premises in question. This question was raised with respect to items such as protective force, library, and shrubbery with respect to each of which considerable funds were expended for the taxable years involved in these cases. Whereas these items are normally in the nature of capital expenditures or are unusual as items of expense, so long as they are approved by the Department of Housing and Urban Development and permitted by that Department, they are proper items of expenses for real estate tax purposes when deriving income by the Landry Method. It should be kept in mind that the application of the Landry Method is only appropriate where properties are subject by law to restrictions as to use and sale, such as the special housing involved in these cases.

Accordingly, for real estate tax purposes for the years involved in these cases, the Court finds that the value of the premises and tax refund for the years involved are as follows:

FISCAL YEARS	ESTIMATED MARKET VALUE	TAX REFUND TO PETITIONER
1975	$1,693,886.00	$15,988.00
1976	1,653,101.00	16,838.00

So Ordered.

Eugene N. Hamilton
Judge

January 19, 1977

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