

Opinion
No. 1715

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA TAX DIVISION

Tax Division

MAR 25 1983

MARTIN BERGER, and
ARJAY CORPORATION,

Petitioners,

v.

DISTRICT OF COLUMBIA,

Respondent.

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Tax Division Nos. 3154-82 and 3155-82

FILED

ORDER

These cases were tried together, at the request of the petitioners, on March 21, 1983. Martin Berger appeared pro se in Case No. 3154-82. Martin Berger owns 50% of the Arjay Corporation and appeared as its counsel in Case No. 3155-82. In both actions the petitioners appealed their 1982 real property tax assessments. Based upon the pleadings, exhibits, witnesses and arguments of counsel for the petitioners and for the District of Columbia, the Court makes the following:

FINDINGS OF FACT

1. This Court has jurisdiction to hear this appeal pursuant to D.C. Code §11-1201 and §47-3305 (1981).

2. Petitioner Martin Berger challenges the 1982 real property tax assessment on a vacant lot which he owns in an undeveloped alley in the rear of F Street, N.E. This is Lot No. 824 in Square No. 4540. The lot was originally assessed at \$7,043. The petitioner appealed to the Board of Equalization and Review which reduced the assessment to \$5,009. The petitioner paid the resulting tax of \$106.70 and timely filed this appeal.

Petitioner Arjay Corporation challenges the 1982 real property tax assessment on a vacant lot it owns on Martin Luther King Avenue, S.E. This is Lot No. 244 in Square No. 5806. The lot was originally assessed at \$10,917. The petitioner appealed to the Board of Equalization and Review which reduced the assessment to \$8,390. The petitioner paid the resulting tax of \$232.54 and timely filed this appeal.

2. In both cases the petitioners claim that the Respondent improperly overassessed the property for Tax Year 1982. In particular, the petitioners claim that the assessments failed to take into account the fact that the properties were acquired through tax deed. The petitioners contend that the cloud on the title during the period of redemption, and the necessity for a later action to quiet title, adversely affects the marketability of the properties.

3. With respect to Lot 244 the petitioner contends that, because of an insufficient amount of frontage on Martin Luther King Avenue, Lot No. 244 is not suitable for development as commercial property. The petitioner argues that the District's assessors failed to note the lack of commercial frontage in reaching their determination of market value. The Petitioner further argues that the assessors, in estimating the market value of Lot 244, used market values of other properties that were not truly "comparable" because they had more frontage available for commercial use than Lot 244. The Petitioner also characterized the Martin Luther King Avenue area as one of the most economically depressed locations in the city, thus further reducing the market value of Lot 244.

4. With respect to Lot 824, the petitioner stated that, although the property was, and is, undeveloped, it is suitable for a three-car garage.

5. The petitioner estimates that the market value of Lot 244 on January 1, 1981, was \$3,000 - \$4,000. The petitioner estimates that the market value of Lot 824 on January 1, 1981, was \$2,000. The petitioner did not introduce any market surveys or other documentation to support the estimates of market value in either case.

6. The Respondent contends that the assessments placed on Lot Nos. 244 and 824 were not excessive. Noting that this hearing is a trial de novo, Mr. Klugel, the Respondent's Chief Assessor testified that the original valuation placed on the properties by the District's assessors was properly based on evaluation of surrounding comparable properties, and the individual characteristics of each Lot. He further testified that the reductions in assessed value allowed by the Board of Equalization and Review were unwarranted.

In support of this contention, the Respondent introduced into evidence the list of comparable properties used by the District's assessors in reaching the taxable value of Lot 244 for 1982. The average square foot price for these properties is substantially higher than that assigned to Lot 244. The Respondent did not introduce the list of comparable properties used to assess Lot 824. Based on this evidence, the Respondent requested an increase in the lawful assessment of both Lots for Tax Year 1982.

CONCLUSIONS OF LAW

After careful consideration of all the evidence adduced at trial, this Court has concluded that the petitioners have failed to carry their burden of proving by a preponderance of the evidence the incorrectness of the government's assessment. Wyner v. District of Columbia, 411 A.2d 59 (D.C. App. 1980). Although they are clearly dissatisfied with the assessed values placed on their properties for Tax Year 1982, the petitioners introduced no evidence that the District employed incorrect procedures or untrustworthy assessment methods in determining the market values of their properties. The petitioners offered no alternative value of their properties other than their own unsupported guesses. They introduced no evidence which would indicate that the District failed to consider the peculiar characteristics of the individual properties, such as the tax deed, the small commercial frontage, or the location in an economically depressed area of the city. Therefore, the Court has determined that the assessments placed on the properties by the Board of Equalization and Review must be sustained.

Furthermore, the Court is not convinced that the undeveloped properties in their January 1, 1981, condition, were undervalued by the Board of Equalization and Review as the District argued in this trial. That the Board reduced the original assessments on each Lot indicates only that the Board properly considered the particular characteristics of the properties which would merit a reduction in their taxable value

so as to bring them into equalization with comparable surrounding properties. For example, the list of comparable properties used by the District in assessing Lot 244 leads this Court to conclude that the Board considered Lot 244's lack of adequate commercial frontage when it reduced the amount of the original assessment. Taking into consideration the unique features of these properties, the Court is satisfied that the Board's determination of the taxable value of each lot is correct, and that equalization was achieved. The Court therefore will deem each property to be lawfully assessed at the value reached by the Board.

JUDGMENT

Wherefore, it is this 25 day of March, 1983,

ORDERED, that the value appealed from on Lot 824 in Square 4540 in the District of Columbia, be, and hereby is, sustained; and it is

FURTHER ORDERED that the value appealed from on Lot 244 in Square 5806 in the District of Columbia, be, and hereby is, sustained; and it is

FURTHER ORDERED that Judgment be, and hereby is, entered for the Respondent, District of Columbia, in both cases.


JUDGE IRALINE G. BARNES

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