

OPINION NO. 1120

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

SIXTY M STREET, INC., )  
 )  
Petitioner )  
 )  
v. )  
 )  
DISTRICT OF COLUMBIA, )  
 )  
Respondent )

Docket No. 2272

FILED

OPINION AND ORDER

The petitioner appeals from a real property assessment for Fiscal Year 1975. The property involved is located at 60 M Street, N.E. in the District of Columbia, and is more fully described as Lot 240, Square 672. The Court has jurisdiction to hear this case pursuant to D. C. Code 1973, §47-2405.

I

Briefly, the underlying facts are as follows: The petitioner, Sixty M Street, Inc., maintains its office address at 50 Florida Avenue, N.E. in the District of Columbia. The petitioner purchased the subject property on or about April 1, 1974, in an arms-length transaction from Kraftco Corporation of Glenview, Illinois. The purchase price was \$270,000. A real property tax in the amount of \$10,042.96 was assessed against the property based on an assessed value of \$302,499 and an asserted fair market value of \$550,000. The tax was paid on November 14, 1974, and an appeal was filed to the Board of Equalization and Review on April 1, 1974. The Board issued its decision on May 6, 1974, upholding the assessment. Petitioner thereafter appealed to this court.

The property consists of land and improvements and is zoned C-M-3, which is primarily intended to provide sites for the development of light manufacturing and heavy commercial activities. The land area consists of 73,949 square feet and is located within one and one-half blocks of the corner of North Capitol Street and New York Avenue, N.W. The property is within several blocks of the Main Post Office Building, the Government Printing Office and Union Station.

The improvements on the property consist of seven buildings formerly operated by Southern Dairies and Sealtest Foods as an ice cream manufacturing plant. The structures are fully described and pictured in the comprehensive written appraisals submitted by both parties (Pet. Ex. 1, Resp. Ex. 1).

II

The parties called expert witnesses who testified as to the value of the property for the taxable year involved. The expert called by the petitioner was Mr. Robert W. Kidwell who testified that in his opinion the property had a fair market value of \$280,000 which he arrived at by determining that the value of the ground "unimproved and ready for development" would command a price of \$5.50 a square foot or a total price of \$406,500. Since the structures on the property are obsolete they would have to be demolished at a cost of approximately \$125,000 bringing the fair market value of the property, in Mr. Kidwell's opinion, to \$281,500.

The respondent called Mr. Robert L. Kiegel as its expert witness and he testified that in his opinion the fair market value of the property was \$319,500 or some \$230,500 less than the fair market value first determined by the Assessor and upheld by the Board of Equalization and Review. His opinion is based on his determination that the property has a per square foot value of \$6.25 or a total value of \$462,000 less the cost of demolition in the amount of \$142,500 resulting in a fair market value of \$319,500.

### III

After considering the testimony and the evidence offered by the parties, and in particular, the evidence offered by the expert witnesses, the Court concludes that the original fair market value of \$550,000 as found by the Assessor was so excessive as to be arbitrary. Indeed, the evidence supports a finding that that figure was arrived at when the Assessor saw the property advertised for sale and called to inquire and was informed that the asking price, at that time, was \$550,000. Of course, the respondent's own expert testified that the fair market value was \$319,500. After considering all the evidence however this Court determines that the fair market value of the property was \$295,000.

In arriving at its findings, the Court has, of course, given great weight to the testimony of the expert witnesses. However, the facts concerning the sale of the property in 1974 are also significant. Kraftco Corporation apparently put the

property up for sale in the Spring of 1973 at an asking price of \$550,000. The property was listed with a number of commercial brokers and was advertised in the Washington Post and the Washington Star. From the Spring of 1973 until the sale of the property to the petitioner, the broker received one offer and only 12 inquiries. By September, 1973, Kraftco had dropped its asking price to \$395,000. It received a bid of \$200,000 in October, 1973, but rejected that bid. It is also noted that the petitioner had originally offered to buy the property at a price less than the \$270,000 it actually paid. Last, the Court notes that the appraisal submitted by the petitioner was actually made in 1974 at the request of the bank which ultimately loaned petitioner the necessary funds to make the purchase.

Based upon all of the above this Court concludes that the fair market value of the subject property in Fiscal Year 1975 was \$295,000.

ORDER

It is hereby

ORDERED that the petitioner will be entitled to a refund for real property taxes on the subject property as a result of this Court's determination that the fair market value of the property was \$295,000; and it is further

ORDERED that petitioner shall submit a proposed Order For Refund to the Court within five days of the date of this order; and it is further

ORDERED that respondent shall have five days from the date of petitioner's proposed order in which to submit any objections to either the form or substance of the proposed order.

Dated: December 1, 1975.



JOHN GARRETT PENN  
Judge

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FINANCE & REVENUE, D. C.

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