OPINION NO. 1080

DISTRICT OF COLUMBIA TAX COURT

FILED

AUG 29 1969

District of Columbia
Tax Court

CHRISTOPHER DE JEAN HERCULES, Petitioner,	)	
vs.	)	DOCKET NO. 2077
DISTRICT OF COLUMBIA, Respondent.	)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION

Petitioner seeks to appeal real estate taxes paid for the fiscal years 1968 and 1969, and the assessment proposed for the fiscal year 1970, on Lot 12 in Square 1357, known as 4640 Que Street, N. W., his residence in Palisades Park.

Petitioner's long-time general objections to the level of his assessments were apparently brought to the action stage by a misdirecting of his tax bills for the second half of 1967 and for the year 1968. Due to computer error, petitioner's bills for this period were sent to and paid by Charles J. Barber, 132 Mauck Road, Hillsdale, Michigan, the owner of a lot of almost the same description. The error was corrected, the Barber payments were refunded, and petitioner paid the taxes involved in the misdirected bills.

The 1968 taxes here involved in the amount of $318.86 were paid in three installments on July 17, September 30, and November 8, 1968 without interest; interest and of course penalty on the payments for fiscal 1968 (due in two installments in September, 1967 and March, 1968) having been waived by administrative action of the Department of Finance and Revenue.

The statutory system for review of real estate assessments in the District reasonably provides for a Board of Equalization and Review, composed of experts in the District's employ, to which taxpayers first bring their complaints about the "valuations made by the board of assistant assessors," now the valuations made by the Department of Finance and Revenue. Code sec. 47-708 as amended; see notes following Code sec. 47-604. The Board convenes "on the first Monday of January of each year, and shall remain in session until the first Monday in April of each year, after which date no complaint as to valuation as herein provided shall be received or considered by such Board * * *." (id.) Thereafter, valuations made and so equalized are to be completed by the first Monday in May, approved by the D. C. Commissioner by July 1st, and when so approved, "shall constitute the basis of taxation for the next succeeding year and until another valuation is made according to law, except as hereinafter provided." Code sec. 47-709.

The provision is, that appeal from the valuation may be made to the D. C. Tax Court after the proceedings before the Board of Equalization and Review--

> except that, in case of increase of valuation of real property over that for the immediately preceding year, where no notice in writing of such increase of valuation is given the taxpayer prior to March 1 of the particular year, no such complaint [to the Board of Equalization and Review] shall be required for appeal.

It appears from the petition that the assessments under consideration have been as follows:

Year	Land	Imps.	Total
1967	$2997	$5400	$7997
1968	5995	5000	10995
1969	5995	5000	10995
1970	4710	4200	8910

On brief, respondent admits payment of the resulting 1968 taxes on the dates set out in the second paragraph above, and of the 1969 taxes, one-half in September, 1968 and one-half in March, 1969. The fiscal 1970 taxes are payable in September, 1969 and March, 1970, and of course are not directly before the court in this proceeding. However, the fiscal 1970 assessments are of importance to petitioner's appeal from the 1968 and 1969 assessments, because of a letter from petitioner (not in the record) "filed with the Board of Equalization and Review on June 11, 1968", requesting that his "real property taxes for fiscal years 1968 and 1969 be reviewed and revised."*/ This letter "was treated as an appeal for the fiscal year 1970." Respondent's brief, p. 2. The consequent inspection of the property by the respondent's expert, Andrew T. Gleeson, was conducted on January 15, 1969, resulting in a "consensus of the Board that the market value of Mr. Hercules' property at the time we made our decision was $16,250", which translates to an assessed value of $8,910. (Tr. 58.)

Conclusion on valuation. As adopted from respondent's candid and succinct brief, the first conclusion is that it is up to petitioner to overcome the presumption that the assessment in question is valid. Petitioner's testimony boils down to his view that he is paying too much tax. He nowhere states

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*/ Apparently as a follow-up of this letter, letters to the Board of Equalization and Review dated July 10, 1968 and September 25, 1968, in evidence, sufficiently inform the Board that petitioner wants his assessments reviewed. These letters contain invidious and unwarranted accusations against the taxing authorities and others, which of course should be simply ignored by all concerned. A witness for the District refers to a "copy of an appeal signed on the 22nd of June 1968", which led him to inspection and re-appraisal of the property. (Tr. 54.) This may well refer to another of the "letters sent to the District government in complaint" by petitioner. (Tr. 19.)

what he thinks his property is worth, nor what value he would put on other nearby houses which he cites as comparables. Mr. Gleeson's testimony, based on the sales of five comparables within the last four years, has neither been disputed or refuted. Mr. Gleeson's testimony is clear, candid and convincing, and the value of the property in question is $16,250, for an assessed value of $8,910 as of January 15, 1969.

Judicial notice is taken of the fact that property values in the Palisades Park area have been increasing during the last few years. The only evidence of record concerning the value of the property in question for the fiscal years 1968 and 1969 is the Board's valuation for fiscal 1970 of $8,910, which is $2,085 less than the 1968 and 1969 assessments. This value, consequently, will be accepted as the basis on which taxes should have been computed for 1968 and 1969.

Years involved in this proceeding. Respondent claims only that because the "records of the Property Tax Division do not indicate that petitioner made any appeal to the Board of Equalization and Review concerning his 1968 and 1969 taxes", this appeal to the Tax Court "as it relates to the fiscal years 1968 and 1969 was not timely made." (Br. 2.) However, the record is clear that petitioner, by written and oral presentations, made his protests known to property tax officials and employees in 1968, as soon as possible after the misdirected bills came to his attention. The protests should have been treated as applicable to the 1968 assessment rather than "treated as an appeal for the fiscal year 1970." (Respondent's br., 2.) Considering "as done" that which "should have been done", the valuations on petitioner's property are

excessive in the amount $2,085 for the years 1968 & 1969, and refunds with statutory interest, should be made.**/

Decision for petitioner; respondent will submit computation of refunds and interest for which judgment will issue.

Robert M. Weston
Judge

Served as follows:

Mr. Christopher DeJean Hercules
4640 Que Street, N. W.
Washington, D. C. 20007 (Mailed 8/29/69)

Finance Officer, D. C. (Mailed 8/29/69)

Corporation Counsel, D. C. (Mailed 8/29/69)

Phyllis R. Liberti
Clerk

**/ As a matter of personal justice to the District employees here involved, it must be noted, although not on the record, that petitioner was offered the same or a similar settlement before trial.