

Opinion
No. 1177

JOSEPH H. ...
CLERK
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

APR 20 1979

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

FILED

TAX DIVISION

STEVEN P. WYNER	:	
	:	Docket No. 2626
Petitioner	:	
v.	:	
DISTRICT OF COLUMBIA	:	
Respondent	:	

ORDER

Petitioner claims that because he did not receive notice of the increased assessment of his property for the tax year 1979, the assessment should be rescinded. Petitioner also claims that the District of Columbia erred because it did not apply the residential tax rate to petitioner's property and because the petitioner did not receive the homestead exemption. Both sides have filed for summary judgment. Having reviewed the record and listened to oral argument, it is clear that the facts are not in dispute.

Findings of Fact

1. The petitioner is Steven P. Wyner, who resides at 405 Sixth Street, N.E., Washington, D.C.
2. Petitioner purchased this property on April 25, 1978, for \$110,500.00 and filed his deed recordation tax return on April 28, 1978.
3. Prior to April 25, 1978, the owner of the subject property was Juan Cameron.
4. The assessed value of the property for the tax year 1978 was \$34,820.00 (\$13,645.00 for land and \$21,102.00 for building).
5. In October 1977, Juan Cameron applied for and received permission to make improvements on the property. (See Respondent's Exhibit 2.)
6. In February 1978, and March 1978, the Department of Finance and Revenue sent property tax notices to the record owner, Juan Cameron, at his mailing address, 3415 O Street, N.W., Washington, D.C.

7. Pursuant to D. C. Code §47-710 (1973 ed.), on August 1, 1978, the Department of Finance and Revenue mailed a notice to Juan Cameron indicating that the Department intended to increase the assessment of the subject property for 1979 because of the improvements. However, Mr. Cameron was not the owner at the time.

8. The Department of Finance and Revenue mailed the August 1, 1978 notice to Mr. Cameron because its records did not reflect that the property had been sold on April 25, 1978.

9. The petitioner, by letter dated September 29, 1978, questioned the new assessed value of the property for the tax year 1979, and the failure of the Department of Finance and Revenue to apply the residential tax rate and the homeowner's exemption to the petitioner.

10. The Board of Equalization and Review treated this letter as an appeal and sustained the 1979 property assessment.

11. The petitioner neither applied for the homestead exemption nor filed for the residential tax rate

Discussion

I. Notice

Petitioner claims that because he did not receive notice of the increased assessment of his property for the tax year 1979, the assessment should be rescinded. The notice that is at the center of this action was mailed August 1, 1978 to the former owner, Juan Cameron. On September 29, 1978, the petitioner wrote the Board of Equalization and Review questioning the increased assessment. The Board treated this as an appeal, reviewed the case, and sustained the assessment.

Although the District of Columbia did not send a notice to petitioner, who became the owner on April 25, 1978, it did send a notice to the former owner. Its records did not reflect that the property had been sold. The District of Columbia took reasonable steps to give notice to

"the owner" under the facts of this case. See, Moore v. Government of District of Columbia, 332 A.2d 749 (1975).

The purposes of the notice requirement are, first, to notify the taxpayer of an increase or change in his property taxes and, second, to give the taxpayer a reasonable period in which to appeal or challenge the assessment. In the instant action, the taxpayer knew of the increased assessment the month after the notice was mailed to the former owner. See petitioner's letter attached to petitioner's complaint. Moreover, because the Board of Equalization and Review treated the petitioner's inquiry as an appeal, he was given his procedural right to appeal. He was treated no differently than a person who received written notice. The petitioner was not harmed by his failure to receive written notice of the increased assessment.

II. Homestead Exemption and the Residential Tax Rate

Petitioner claims that he was improperly denied the Homestead Exemption. However, because the petitioner never applied for the homeowner's exemption pursuant to D. C. Law 2-45, he cannot reap the benefits of this exemption.

Petitioner also claims that the Department of Finance and Revenue erred because it did not assess the petitioner's property at the residential rate. However, the petitioner did not apply for this deduction pursuant to D. C. Law 2-138 (1979) and, therefore, cannot take advantage of its benefits.

Conclusions of Law

1. The District of Columbia complied with the statutory scheme and acted reasonably by notifying the person, who, according to its records, was the owner of the property, of the increased assessment.

2. The petitioner was not harmed when he did not receive written notice of an increased property assessment because he was given a review before the Board of Equalization and Review. That is, he was treated just like a person who received actual written notice.

3. The petitioner was not entitled to receive the benefits of the homestead exemption or the residential tax rate because the petitioner did not comply with the statutory requirements.

WHEREFORE, it is ORDERED that the petitioner's Motion for Summary Judgment is hereby denied and the respondent's Motion for Summary Judgment is hereby granted.

Judgment is entered in favor of the respondent, District of Columbia.


WILLIAM C. PRYOR
Judge

April 25, 1979

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Finance and Review