

Opinion
no. 1209

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

ROCK CREEK PLAZA - WOODNER LIMITED
PARTNERSHIP, Ian Woodner, General
Partner,

and

3636 WOODNER LIMITED PARTNERSHIP
Ian Woodner, General Partner,

and

JONATHAN WOODNER COMPANY, INC.,
Petitioners,

v.

DISTRICT OF COLUMBIA,

Respondent.

SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

APR 20 1982

FILED

Docket No. 2675

ORDER

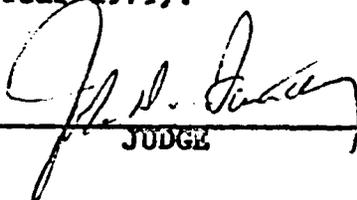
The Court having made its Findings of Fact and
Conclusions of Law, it is this 17th day of April
1981, 1982

ORDERED:

1. That respondent District of Columbia is entitled to a payment of additional taxes assessed against Lots 831 and 832 in Square 2624 and on Lots 352, 353, 354, 358 and 839 in Square 2621 in the District of Columbia for Tax Year 1979, commencing July 1, 1978 and ending June 30, 1979, in the total amount of \$14,443.56.
2. That the full market value for the land and improvements of the subject property for purposes of District of Columbia real property taxation for the Tax Year commencing July 1, 1978 and ending June 30, 1979 is as follows:

<u>LOT</u>	<u>SQUARE</u>	<u>LAND</u>	<u>IMPROVEMENTS</u>	<u>FULL MARKET VALUE</u>
801	2624	\$1,122,136	\$3,989,573	\$5,111,709
802	2624	1,030,780	3,811,777	4,842,557
352	2621	20,318	800	21,118
353	2621	20,318	3,200	23,518
354	2621	20,318	3,200	23,518
358	2621	20,318	3,200	23,518
809	2621	3,812	250	4,062
		<u>\$2,238,000</u>	<u>\$7,812,000</u>	<u>\$10,050,000</u>

3. That respondent modify the assessment record cards for the property involved in this case to reflect the values here attributed to it for the period July 1, 1978 to June 30, 1979 (Tax Year 1979).



 JUDGE

Copies to:

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R. Stanfield
4/20/82

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

ROCK CREEK PLAZA - WOODNER LIMITED :
PARTNERSHIP, Ian Woodner, General :
Partner, :

and :

3636 WOODNER LIMITED PARTNERSHIP :
Ian Woodner, General Partner, :

and :

JONATHAN WOODNER COMPANY, INC., :

Petitioners, :

v. :

DISTRICT OF COLUMBIA, :

Respondent. :

Docket No. 2675

SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
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FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

Petitioners appeal from real property tax assessments for Tax Year 1979 on Lots 831 and 832 in Square 2624 and on Lots 352, 353, 354, 358 and 839 in Square 2621. Based upon the stipulations entered into by the parties and the evidence and arguments offered at trial, the Court makes the following findings of fact and conclusions of law:

1. Petitioner Rock Creek Plaza-Woodner Limited Partnership, Ian Woodner, General Partner, is a limited partnership organized and existing under the laws of the District of Columbia, with a principal place of business at 3636 16th Street, N.W., in the District of Columbia, and is the owner of record of real estate in the District of Columbia known as Lot 831 in Square 2624 and is obligated to pay all real estate taxes assessed on said property.

2. 3636 Woodner Limited Partnership, Ian Woodner, General Partner, is a limited partnership organized and existing under the laws of the District of Columbia, with a principal place of business at 3636 16th Street, N.W.,

and is the owner of Lot 832 in Square 2624 and is obligated to pay all real estate taxes assessed against said property.

3. Jonathan Woodner Company, Inc. is a corporation organized and existing under the laws of the State of Delaware with a principal place of business at 3636 16th Street, N.W. in the District of Columbia, and is the owner of record of real estate in the District of Columbia known as Lots 353, 354, 358, 839 and 352 in Square 2621 and is obligated to pay all real estate taxes assessed against said properties.

4. Lots 831 and 832 in Square 2624 are improved by a rental apartment complex commonly known as The Woodner Apartments with premises known as 3636-3640 16th Street, N.W.; Lots 352, 353, 354, 358 and 839 in Square 2621 are surface parking lots located on Oak Street, N.W.; which are contiguous to the apartment complex; Lots 831 and 832 in Square 2624 and Lots 352, 353, 354, 358 and 839 in Square 2621 are hereinafter referred to as the "subject property".

5. The Respondent, District of Columbia, is a municipal corporation, created by the United States Congress, Section 1-101 et seq. of the District of Columbia Code.

6. Petitioners received notices of assessment dated February, 1978, stating that the total assessment on the subject property for fiscal year 1979 was \$13,103,140.

7. Plaintiffs timely filed their appeals from the proposed assessments with the Board of Equalization and Review. Oral hearing was held before said Board on May 18, 1978. The Board, by letters dated June 16 and June 20, 1978, notified petitioners of its decisions which had the effect of reducing the total assessment on the subject properties to \$9,260,734.

8. The taxes and assessment in controversy are, therefore, those determined by the Board of Equalization and Review for Tax Year 1979, which total the following amounts:

Total Assessment: \$9,260,734

Total Taxes: 169,471.44

9. The Tax Year 1979 real estate taxes, in the amount of \$169,471.44, have been paid in full prior to the bringing of this suit.

10. The valuation date for Tax Year 1979, which commences on July 1, 1978 and ends on June 30, 1979, is January 1, 1978.

11. The primary lots are 831 and 832 in Square 2624 which combined have a land area of about 166,580 square feet. According to the current zoning regulations these lots are zoned R-5-C. The lots are improved by two connecting buildings that conform to the existing land topography so that at the 16th Street side of the buildings the height is eight (8) stories increasing to thirteen (13) stories as the land nears Rock Creek Park at the rear. The original construction occurred about 1951. Lot 831, also previously known as Rock Creek Plaza Apartments, originally contained 567 rental apartments, a Ballroom and ground level commercial facilities. Lot 832 also previously known as the Woodner Apartments/Hotel originally contained 370 rental apartments, 182 room hotel, banquet rooms, restaurant and lounge and other ground level retail establishments.

12. The hotel operating license was scheduled for renewal July 1, 1977. The owners did not exercise their right of renewal but choose to convert the existing 182 hotel rooms, the ballroom, etc. into rental apartments.

On or about July 11, 1977 the owners were successful in obtaining two new first trust loans against Lots 831 and 832 in Square 2624 (only) which combined totaled \$9,755,100. These loans bear interest at 8% per annum and have a 30 year amortization schedule. The maker is DRG Financial Corporation and both are FH guaranteed. The amount of \$1,493,868 out of the proceeds of this loan was for the conversion and renovation of the existing 182 hotel rooms and conversion of the ballroom into six(6) new rental units.

13. As of January 1, 1978, the Woodner Apartment Hotel contained 546 rental units and the Rock Creek Plaza Apartments contained 573 units making a total number of 1119 units plus commercial space and doctor's offices, representing approximately 629,000 gross square feet (86,000 square feet unfinished space and 543,000 square feet finished apartment, office and commercial space). There is also 18,000 square feet of parking garage area designed for 200 interior parking spaces (only 175 spaces in actual use). As of the date of valuation the property was in a state of conversion of hotel units to apartments and was undergoing a program of deferred maintenance and 182 units (undergoing conversion) were vacant.

14. Lots 352, 353, 354, 358 and 039 in Square 2621 contain 27,010 square feet of land zoned R-4 and is used for outside surface parking for the entire Woodner complex. There are 96 parking spaces.

15. The current usage of the entire apartment complex is at its highest and best use.

16. The income or economic approach to value for the subject property is the proper approach in estimating its fair market value.

17. The respondent's expert appraisal witness estimated in his report that the stabilized net income of the subject property before real estate taxes for 1977 was \$1,257,000. This estimate was derived by use of actual and historical income and expense figures, stabilized by comparison with expenses of other similar properties.

18. Respondent's expert concluded that the applicable capitalization rate was 10.55%. The determined "cap" rate is applied to the income stream after all operating expenses, including real estate taxes, have been deducted from collected income but before amortization or depreciation. Because the appraisal problem in this case is to find the proper amount of real estate taxes, the effective tax rate, which is \$1.83, is added to the before-mentioned "cap" rate and real estate taxes are not included in operating expenses. Thus, the over-all capitalization rate of 12.38% is applied to the net operating income.

The over-all capitalization rate is computed as follows:

Mortgage to value ratio 75% x Mortgage Constant 10.07 =	.0755
Investment Equity 25% x 12% return =	.0300
Capitalization Rate before Real Estate Taxes	.1055
Real Estate Tax Effective Rate	.0183
Over-all Capitalization Rate	<u>.1238</u>

Respondent's expert, as stated above, determined a stabilized net income (before real estate taxes) of \$1,257,000. Stated net income is then divided by the over-all capitalization rate which results in the value estimate, e.g.:

$$\$1,257,000 \div .1238 = \underline{\underline{\$10,153,000}}$$

Respondent's expert also made a judgment adjustment of \$100,000 to the above value estimate to reflect a time lag rent loss during 1978 because of ongoing renovation work. The value adjustment is as follows:

Less Time Lag Adjustment	\$10,153,000
	<u>- 100,000</u>
	\$10,053,000

Property Value Rounded to As of January 1, 1978	<u>\$10,050,000</u>
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Respondent's expert made no adjustment, as did petitioners' expert, for an alleged balance of cost to complete conversion and deferred maintenance program.

19. The petitioners' expert appraisal witness estimated in his report that the stabilized net income of the subject property after real estate taxes (but before capital recapture and debt service) was \$929,009. This estimate was derived by using \$3,169,452 as the gross rent potential from all sources at 100% occupancy as of January 1, 1978, and subtracting from that amount 5% allowance for vacancies (\$158,472) and stabilized annual expenses including real estate taxes of \$2,081,971 (\$1,912,500 in stabilized annual expenses and \$169,471 in actual real estate taxes paid for Tax Year 1979). The estimate of \$1,912,500 in stabilized annual expenses was derived from an analysis of the 1975 through 1977 expense statements of petitioners.

20. Petitioners' expert concluded that the applicable over-all capitalization rate was 10.3675%. This rate is computed as follows:

1st Mortgage	- 75% of value x 10.49% Constant	= 7.8675%
Equity	- 25% of value x 10% Cash Flow	= <u>2.5000%</u>

Basic Over-all Rate. 10.3675%
or .103675

Under his first method ("A"), petitioners' expert divided stabilized net income of \$929,009 by the over-all capitalization rate which results in the value estimate, e.g.:

\$929,009 ÷ .103675 = \$8,960,781

The amount of \$8,900,781 represents the value of the property subject to completion of conversion and deferred maintenance. From that amount petitioners' expert made a one-time deduction of \$1,481,637.^{1/} The computations to arrive at this one-time deduction are as follows:

Balance of Cost to Complete Conversion and Deferred Maintenance Program	\$850,782
Estimated Gross Rent Loss During Conversion and Leasing Up Period, i.e. estimated period of 18 months	<u>630,855</u>
	\$1,481,637

This one-time deduction from the value subject to completion of conversion and maintenance leaves a final full market value of \$7,480,000, allocated between land and improvements in the following manner:

Land	\$2,238,000
Improvements	<u>5,242,000^{2/}</u>
	7,480,000

Under his second approach ("B"), referred to as a "secondary method", petitioners' expert employed the method used by respondent's expert and added the real estate tax rate (1.83) to the basic over-all rate of 10.3674% to arrive at a weighted average capitalization rate of 12.1975%. He then divided the stabilized net income before payment of real estate taxes of \$1,098,480 by the rate of 12.1975% to arrive at value of \$9,005,780. From that value petitioners' expert made his one-time deduction of \$1,481,637 as described above to arrive at a rounded value of \$7,524,000.

^{1/} This figure was \$1,471,637 in the appraisal report. Counsel for petitioners corrected it to \$1,481,637 based on a mathematical error.

^{2/} The \$10,000 mathematical error above reduces the value of the improvements by \$10,000.

21. After petitioners' expert testified as to his conclusion of the land value, respondent offered to stipulate to that amount and the Court finds land value as of January 1, 1978 on the subject property to be \$2,238,000.

22. The Court questions the methodology of petitioners' expert in several respects:

a. As stated above, the appraisal problem in this case is to find full market value of the subject property on January 1, 1978 for District of Columbia real estate assessment purposes. By including the actual cost of Tax Year 1979 taxes (\$169,471) as an expense and deducting them from gross rent potential to arrive at net income before capital recapture and debt service (\$929,009), petitioners' expert has failed to perceive the issue at hand. The Court prefers the method of respondent's expert (and petitioners' expert's "B" method) in adjusting the capitalization rate to reflect the rate of real estate tax on commercial properties rather than deducting the amount of taxes actually paid (which is the issue) from gross income in deriving net income.

b. The Court questions petitioners' expert's one-time deduction of \$1,481,637. Of that amount, \$850,782 allegedly represents the balance of cost to complete conversion and deferred maintenance program. The Court finds that petitioners' expert's treatment of this amount is unsupportable since that amount had been set aside from the loan proceeds in escrow to satisfy remaining conversion costs. A one-time deduction of this amount is, therefore, unwarranted since the funds were available to petitioners.

The Court also questions the expert's methodology in including \$630,855 in his one-time deduction. That amount allegedly represents estimated gross rent loss

during the conversion and leasing up period for an 18 month period. Counsel for petitioners, however, agreed that, since the income-stream was computed by petitioners' expert utilizing twelve months of operations, an 18 month period was incorrect. Obviously, a one-time deduction of this kind must be annualized if the income-stream utilized is also annualized.

c. The Court notes that petitioners' expert does not support his conclusions of stabilized expenses or one-time deductions by comparison with any other similar properties.

d. The Court further notes that petitioners' expert has ignored certain economic realities in existence in this case, to wit, the existence of an FHA guaranteed mortgage on Lots 831 and 832 obtained six months before the valuation date of \$9,750,000.

23. Petitioners' appraisal report is received, but given little weight for the reasons stated in paragraph 22 herein.

24. The only convincing evidence as to the value of subject property for T.Y. 1979 was that evidence offered by respondent. The Court accepts the testimony and written report on the full market value of the subject property of Anthony Reynolds, MAI, of \$10,050,000. The Court notes that the above-mentioned FHA guaranteed mortgage supports this value. Since the total land value of the subject property is \$2,238,000, the total improvement value therefore is \$7,812,000.

25. The Court finds that the petitioners have not demonstrated by a preponderance of the evidence that the full market value advanced by them for the subject property is correct and that the respondent has demonstrated

that the value it was propounded is by a preponderance of the evidence.

26. Using the full market value of the subject property as \$10,050,000, the increase in assessment and taxes for Tax Year 1979 is in the following amounts:

Total Increase in Assessment: \$789,266

Total Increase in Taxes: 14,443.56

27. The Court having found that the fair market value of the subject property as of January 1, 1978 is \$10,050,000, Petitioners without waiving objection to the value as found by the Court and solely for the purpose of allocation of the Court's Findings and Conclusions, have agreed with respondent to the following allocation of the value as found by the Court for the land and improvements for the individual lots here involved for purposes of District of Columbia real property taxation for Tax Year commencing July 1, 1978 and ending June 30, 1979:

<u>LOT</u>	<u>SQUARE</u>	<u>LAND</u>	<u>IMPROVEMENTS</u>	<u>FULL MARKET VALUE</u>
801	2624	\$1,122,136	\$3,909,573	\$5,111,709
802	2624	1,030,730	3,811,777	4,842,557
302	2621	20,310	800	21,110
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304	2621	20,310	3,200	23,510
308	2621	20,310	3,200	23,510
809	2621	3,012	250	4,062
		<u>\$2,238,000</u>	<u>\$7,812,000</u>	<u>\$10,050,000</u>

It being understood that this stipulation is no admission by petitioners as to the value of the land or improvements.

CONCLUSIONS OF LAW

1. The Court has jurisdiction pursuant to D.C. Code 1973, §§11-1201 and 47-646(1).

2. The only convincing evidence as to value was presented by respondent's expert that the full market value of the subject property for Tax Year 1979 was \$10,050,000, and accordingly its assessment for Tax Year

1979 is \$10,050,000. The Court concludes that this is the full market value of the subject property on January 1, 1978.

3. Respondent is entitled to an increase in assessment to \$10,050,000 for Tax Year 1979 and to the payment by petitioners of \$14,443.56.



JUDGE
April 19, 1972