

420.1216

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Tax Division

APR 29 1983

FILED

WASHINGTON SHERATON, :
: Plaintiff, :
: v. :
: DISTRICT OF COLUMBIA, :
: Defendant. :

Tax Docket No. 3123-82

OPINION AND ORDER

This matter came before the Court on January 6, 1983, for trial. The Petitioner challenges the Real Property Tax assessed against it for Tax Year 1982 pursuant to D.C. Code §47-820 (1981). The Respondent's assessors placed an initial valuation on the petitioner's land of \$17,557,825 and on the buildings of \$78,642,175 resulting in a total estimated market value of \$96,200,000. The Petitioner appealed to the Board of Equalization and Review which reduced the proposed assessment to \$80,325,000. The Petitioner paid the resulting tax of \$1,710,922.50 and timely filed this appeal.

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

I.

The Petitioner, Washington Sheraton Corporation ("the Sheraton"), claims that the assessment values established by the Board of Equalization and Review ("the Board") for both the land and improvements are invalid because they significantly exceed the "estimated market value" of the property in violation of D.C. Code §47-801 et seq (1981). The Petitioner also contends that its property was overassessed in relation to the valuations placed on surrounding comparable properties in violation of the Due Process Clause of the United States Constitution. The Petitioner bears the burden of proving that the government's assessment is incorrect. Hyner v. District of Columbia, 411 A.2d 59 (D.C. App. 1980).

Ordinarily the Respondent, District of Columbia ("the District"), defends the estimate of value arrived at by its assessors or by the

Board. In this case, however, the District chose to place into evidence an entirely new theory of valuation. The District did not argue that the Board's findings were correct. Instead, pointing out the de novo character of the trial, the District argued that the Board's actions with respect to the Sheraton property were not properly before the Court. Neither did the District defend the valuation of the Sheraton property originally reached by its assessors. In its answer, and in answers to interrogatories, the District contended that the original assessment was correct. But at trial, the District introduced no evidence to support the original assessment. The District's evidence at trial consisted solely of the testimony of an expert appraiser who reached a final estimate of the Sheraton's value that was entirely different from the estimate provided by the District's assessors.^{1/} The expert used a different method of appraisal than that chosen by the assessors. Under this method he reached a final valuation that was remarkably similar to the value placed on the subject property by the Board.^{2/} In this way the District attempted to show that whether one used a "construction cost" method of appraisal, or an "income approach," the resulting estimate of the market value of the Sheraton property would be substantially the same.

Because of the unusual posture of this case it is helpful at the outset to discuss this Court's scope of review of real property assessment challenges. The Superior Court's jurisdiction to review a decision of the District's taxing authorities is purely statutory. D.C. Code §47-3303 (1981), which outlines the responsibilities of the Superior Court in tax appeals, provides that "[t]he Court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing. The Court may affirm, cancel, reduce or increase the assessment." This section is made applicable to real estate tax challenges through D.C. Code §47-3305 (1981). The District of Columbia Court of Appeals has

^{1/} The expert assigned a total value of \$31,700,000 to the Sheraton property, while the original assessors reached an estimate of \$96,200,000.

^{2/} The Board valued the Sheraton property at \$80,325,000.

construed the language of §3303 to mean that proceedings in the Superior Court are trials de novo necessitating competent evidence to prove the matters at issue. Wyner v. District of Columbia, 411 A.2d 59 (D.C. App. 1980). See also Watrous v. District of Columbia, 135 F.2d 654 (D.C. Cir. 1943) (interpreting similar language in predecessor statute). A trial de novo means trying the matter anew as if it had not been heard before and as if no decision had previously been rendered. A trial de novo is decided wholly without reference to a decision by an administrative board in the matter. Horton v. Liberty Mutual Ins. Co., 367 U.S. 348, 355 (1961).

II.

The factual and procedural background of this case is essentially undisputed:

1. The Petitioner, Washington Sheraton Corporation, is a corporation organized under the laws of the state of Delaware with its principal place of business at 60 State Street, Boston, Massachusetts. It has, at all times material to this action, been authorized to conduct business in the District of Columbia. The Petitioner owns the land and the hotel improvements located at 2660 Woodley Road, N.W., and designated as Lot 32 in Square 2132.

2. The land area owned by the Sheraton is approximately 702,900 square feet or 16.12 acres located in Northwest Washington, D.C. The land is bounded by Calvert, 24th and 29th Streets, Woodley Road and Connecticut Avenue. Approximately 14 of the acres are zoned R-5-B, the rest, along Calvert Street, is zoned R-5-C. The site is landscaped and improved with a hotel complex.

3. The Sheraton Washington Hotel complex consists of three buildings: The Wardman Building, completed in 1930, containing 308 rooms; the Motor Inn, completed in 1962, containing 215 rooms; and the Main Building completed in March, 1980, containing 990 rooms.

4. The original Main Building of the hotel was erected between 1915 and 1919. Construction on the new Main Building began in 1978. The new building was erected alongside of the original building and incorporated parts of the original building, such as the ballroom. The

original building was not torn down until the new building was completed. The Washington Sheraton chose this method of construction so that business could continue throughout the construction phase. Guests continued to occupy rooms in the old building while the new one was completed. In this manner the Washington Sheraton could continue to meet its convention commitments, some of which were made up to five years in advance. All construction, reconstruction, and demolition associated with the Main Building of the hotel was finished by March, 1980. The Washington Sheraton never closed during the reconstruction, nor did it lose a significant amount of business during that period.

5. At the time that the Main Building was being reconstructed, the Wardman Towers and the Motor Inn were also undergoing renovations. The renovations meant that from four rooms to two floors were unavailable for occupancy at any given time.

6. Tax Year 1982 runs from July 1, 1981, to June 30, 1982. Pursuant to D.C. Code §47-820 (1981) the assessed value of real property must be the estimated market value of such property as of January 1st of the year preceding the tax year. Therefore the Sheraton's market value was to be determined as of January 1, 1981.

7. Paul Spruill, the assessor responsible for valuation of the Washington Sheraton property for Tax Year 1982, placed a valuation of \$96,200,000 on the property. This figure reflected a value of \$17,557,825 for the land and \$78,642,175 for the improvements.

Mr. Spruill testified that he reached the original assessment solely by using the "construction cost" method of appraising the new building, plus the renovation costs of the two existing structures and the value of the land, to arrive at an estimated market value for the Sheraton property. The cost figures were based on data supplied by the Sheraton at his request. Mr. Spruill then compared these figures with data provided by Marshall's Valuation Services to reach an assessment. Mr. Spruill's worksheet contained only the conclusory assessment values. It did not reflect any calculations made to reach the final valuation. Mr. Spruill testified that, in his opinion, the Main Building

was new and thus that the use of the "construction cost" method was appropriate.

Mr. Spruill testified that he received no guidance from trade publications or his supervisors as to when to make the switch from an assessment as a new building to one as a pre-existing building. First he testified that he ordinarily stopped using the construction cost approach after a building had been on the tax rolls under that method for twelve months. Then he testified that he switched methods when the income stream had stabilized to a point where it provided an appropriate basis for determining taxable value. He could determine the point of stabilization by analyzing financial statements. Yet Mr. Spruill stated he did not look at the income and expense statements provided by Sheraton, and did not examine the Sheraton's income stream in order to reach an assessment for Tax Year 1982.

Mr. Spruill also testified that of primary importance in determining when to switch from the construction cost method to the income stream method is the point at which a hotel has acquired a competitive occupancy ratio. He stated that, during the time that the Sheraton's new building was being constructed, other hotels in the District had occupancy rates of 65-70%. Spruill did not look at the Sheraton's occupancy rate for this period.

8. Gregory Daccira, the Comptroller for the Washington Sheraton, testified that the average yearly occupancy rate for the Washington Sheraton during the period of construction was 63.2%.

9. Mr. Spruill further testified that other hotels were undergoing major renovations during the time that the Washington Sheraton was reconstructing its Main Building. None of the other hotels were assessed using the construction costs of their renovations.

10. The Petitioner appealed Spruill's valuation to the Board of Equalization and Review. The Board reduced the total assessment on May 26, 1981, to \$80,325,000 reflecting a \$17,557,825 valuation for the

land and a \$62,767,175 valuation for the improvements.

11. The Petitioner timely paid the tax of \$1,710,922.50 due on the Board's reduced assessment by remitting the appropriate installments in September, 1981, and March, 1982.

12. Plaintiff's Exhibit #5 shows that the Sheraton had an overall return rate of 9% in Tax Year 1982. In contrast the overall return rate for three other convention hotels ranged from 15.6% to 20.5%.

13. There was no testimony as to which method of assessment was used to determine the Sheraton's real property tax liability for Tax Years 1981, 1980 or 1979.

III.

Due to the District's position at trial, this matter presents a true trial de novo in which the prior administrative record is not at issue. Before turning to evaluate the new evidence of value offered in this trial de novo, however, the Court must examine the District's original assessment in light of the unique features of this case. The original assessment and the Board's reduced assessment form the initial jurisdictional foundation of this suit. The Petitioner contends that the District's valuation of its property was arbitrary, thus violating the Petitioner's due process rights. For the following reasons this Court agrees with the Petitioner's position.

The "construction cost" method of estimating value is the proper method of assessment to use when commercial property is brand new and thus has not yet attained a stream of income sufficient to indicate value for taxation purposes. The construction cost approach is used to determine what a willing buyer would pay a willing seller for a new structure. This approach generally outlines the replacement cost of the building (the land is valued separately) to indicate what a buyer would have to pay to construct a similar building.

The Valuation of Hotels and Motels, by the American Institute of Real Estate Appraisers (1979) p. 56 states:

Appraisal literature recommends utilizing the cost approach for new properties (which are not yet affected by the various forms of depreciation) as well as for unique or specialized improvements (churches, libraries) lacking a comparable market and income potential.

. . . A more significant reason why the cost approach is seldom used to value existing hotels and motels is that the underlying assumptions do not reflect the investment rationale of typical hostelry buyers. Lodging facilities are income producing properties that are purchased with the intent of realizing future profits. Replacement cost has little bearing on an investment decision where the buyer's primary concern is the potential return on equity.

One instance where the cost approach does provide a meaningful standard of measurement is in determining the feasibility of a proposed hostelry.

The Respondent's expert witness, William Harps, testified that an "income approach" provided the most appropriate measure of the Sheraton's market value as long as there was a continuing stream of income from which to extrapolate data. He stated that he would not have used a construction cost method even if the Main Building were still in the process of being constructed at the time of the appraisal because such a method does not truly reflect the business income of the property, and would not take into account the costs of delay or non-completion of the building. In Harps' opinion an income approach to value is the only realistic method of assessing business property.

Since all authoritative sources, and all the witnesses at trial, agreed that the construction cost approach to valuation is appropriate only when a hotel is new, the question becomes whether the Sheraton was a new building on January 1, 1981, so that the use of that particular approach properly reflected the estimated market value of the property on that date. Based on the facts enumerated above the Court has concluded that the erection of the Sheraton's new Main Building during 1978-1980 was a reconstruction. The Sheraton's hotel business continued uninterrupted during the period of reconstruction. The Sheraton main-

tained a stream of income sufficient to provide an appropriate basis for determining the estimated market value of the property. The new Main Building was not "new" in the sense that there was ^{no} income history sufficient to form a basis for taxation. The reconstruction of the Main Building was, in essence, renovation on a grand scale. None of the other hotels in the District that were engaged in extensive renovations during the time in question were assessed using a construction cost method. Furthermore, the use of the construction cost approach resulted in an assessment of the Sheraton's property that was significantly higher than the relative assessments of comparable convention hotels arrived at through other appraisal methods.

Therefore, the Court has determined that the District's use of the construction cost method to estimate the market value of the Sheraton property for Tax Year 1982 was arbitrary and capricious. The Petitioner has proved, by a preponderance of the evidence, that the final assessment was not based on sound or commonly accepted and used appraisal principles, ^{3/} and it is invalid.

IV.

Having found that the District's assessment of the Sheraton property for Tax Year 1982 is invalid, this Court must now determine the proper estimated market value of the property as of January 1, 1981. The evidence of value offered by the parties consists primarily of the conflicting testimony of expert appraisers. Both Mr. Anthony Reynolds, who testified as the Petitioner's expert appraiser, and Mr. William Harps, the Respondent's expert witness, have had extensive experience in appraising hotel properties.

^{3/} This Court has previously rejected the use of the construction cost approach noting that it yields an imperfect estimate of market value. Cathman Associates Limited Partnership v. District of Columbia, Tax Bracket 2626 (Memorandum order, April 10, 1979). Idem. (East Atlantic and Pacific Tea Co. v. Klorman, 42 N.Y.2d 236, 366 N.E.2d 803 (1977)).

Since the District abandoned the administrative record, the Court's function in this trial de novo is to weigh the estimates of market value reached by two nongovernment expert appraisers using similar appraisal methods, and to make an informed, impartial determination of the taxable value of the Sheraton property. In a trial de novo the Court may either accept the testimony of one of the experts or perform its own calculations and fashion a final valuation based on all the evidence presented.

Under applicable statutes and regulations, assessment of property in the District for taxation purposes is divided into two parts: a determination of the land value; and a determination of the value of the improvements on the land. The Court will therefore consider the component parts separately.

A. LAND:

Mr. Harps and Mr. Reynolds agreed that the best method of computing the estimated market value of land is to look at sales of comparable properties. Both experts used the same four sales of comparable properties in reaching their conclusions about the market value of the Sheraton's land.

Mr. Reynolds testified that the Sheraton's land area is approximately 16.12 acres (702,313 square feet). Approximately two acres of the parcel is zoned R-5-C which permits a 3.5 FAR. The rest of the land is zoned R-5-B which permits a 1.8 FAR. Reynolds stated that the highest and best use of the land, if it were unimproved, would be as a site for townhouses. Sales of large lots of unimproved land for development as townhouse communities in favorable Northwest locations with comparable zoning restrictions in the previous five years brought between \$4.60 and \$9.74 per square foot. In evaluating the Sheraton property, Reynolds considered the general upward trend of real estate prices, differences in permitted density between the subject land and the comparable properties, and the oversupply of townhouse-type living

arrangements in the District. Based on these factors, he determined that the market value of the Sheraton's land as of January 1, 1981, was \$14.95 per square foot. Therefore, Reynolds concluded that the total valuation of the land for Tax Year 1982 should have been \$10,500,000.

Mr. Harps testified that the Sheraton's land area is approximately 16.11 acres (702,900 square feet), with mixed R-5-C and R-5-B zoning. He testified that if the land were unimproved, its highest and best use would be as a townhouse development. He concluded, however, that the land's present use as a hotel is its current highest and best use due to the presence of the improvements and the necessity for installation of sewer lines, power lines, streets, etc. if the land were to be converted to townhouse use. In Mr. Harps' opinion, the land produces more income due to its use as a hotel site than it would if it were converted to a townhouse development.

Mr. Harps used the same four comparable sales as did Mr. Reynolds, and adjusted the price per square foot to reflect differences in size and increases in real estate prices over time. Harps made his calculations on the basis of price per FAR, and determined that the four comparable sales ranged from \$8.01 to \$13.10 per FAR. He then concluded that the subject land would bring \$12.00 per FAR. This figure translates to \$19.00 per square foot for a final total estimated market value as of January 1, 1981, of \$13,400,000.

The Court recognizes the difficulties inherent in appraising this type of unique property. The differences in estimated value are not surprising. Although the final figures reached by both expert appraisers are supported by their own data and expertise, the Court is persuaded that Mr. Harps' method yields a better estimate of market value than Mr. Reynolds' method. Both experts used the same "comparable" sales. Mr. Harps, however, extensively analyzed the factors which could make these sales not "comparable" to an expected sale of the subject property. He calculated differences in size of lots and

allowable density. He adjusted the sales prices to reflect the effects of inflation and the real estate market boom between the date of the sales and the date on which the Sheraton land was valued. Mr. Harps then related this data to the Sheraton land to determine the price at which the Sheraton land could be expected to transfer between a willing buyer and a willing seller on January 1, 1981.

Therefore, the Court finds that the Respondent has proved by a preponderance of the evidence that the value of the Sheraton land on January 1, 1981, was \$13,400,000.

B. IMPROVEMENTS:

In order to determine the estimated market value of the Sheraton's improvements as of January 1, 1981, Mr. Reynolds considered the costs of construction and renovation, sales of comparable hotel properties in the District, and the income history and investment experience of the Sheraton. He settled on the "income capitalization" approach to valuation. This type of appraisal analysis permits the breakdown of income stream into its component parts, one of which is real estate. Using this approach, Reynolds was able to separate the income attributable to room rental, which in his opinion reflects the value of the real estate, from the income attributable to the operation of a hotel business. Reynolds did this by stabilizing income at January 1, 1981, and then capitalizing it.

To reach the stabilized figure Reynolds used the number of available rooms (1,513) over 365 days. He looked at the average room rates and occupancy rates for the six months prior to January 1, 1981, and projected these forward for the subsequent six months. He adjusted both the room rate and the occupancy rate upward for the six projected months due to an improving climate for the hotel business. Mr. Reynolds testified that he did not use the December-January, 1980, month times twelve because that is the worst occupancy period of the year.

Mr. Reynolds further testified that the 1980 business experience was not, in itself, a proper basis for determining market value (although it would be a proper basis for equalization). The 1980 experience is not representative of the last day of the year for two reasons. First, it does not properly reflect the inflation rate. Second, the hotel's operations were somewhat reduced at the beginning of 1980, whereas by January 1, 1981, the hotel was fully operational. Therefore, using the actual 1980 data would result in an unfairly low income figure. Mr. Reynolds testified that the income stabilization-figure is not an average, but rather the "in-between" that would exist if each year were the same in degree and extent of operation.

Therefore, Mr. Reynolds determined the stabilized rooms' income as the product of 1,513 rooms times \$61.00 per room, times 365 days, times 65% occupancy. He used a capitalization rate of \$14.38. He concluded that the value of the Sheraton's improvements as of January 1, 1981, was \$48,150,000.

Mr. Reynolds further testified that if he had been selling the Sheraton to a willing purchaser on January 1, 1981, he would not have sold the property for less than \$73,000,000. He explained the difference between the two figures as the difference between present worth and potential worth. A prudent purchaser will be interested in the future economic benefits to be derived from an investment in income producing property. This interest in the future is not necessarily indicative of present worth.

Mr. Harps also used an "income capitalization" approach to determine the Sheraton's estimated market value as of January 1, 1981. However, where Mr. Reynolds chose January 1, 1981, as the stabilizing date and used six months actual experience and six months projected experience to determine an income figure as of January 1, 1981, Mr. Harps chose January 1, 1983, as the stabilizing date. Mr. Harps believed that, due to reconstruction and renovation of the hotel, "the

Sheraton Washington had to have lost business." He did not produce any evidence to support this assumption. Although Harps admitted that the Sheraton had completed its renovation and returned to normal operations by January 1, 1981, he explained that it "couldn't have" recouped all the business it had lost during the period of reconstruction. He testified, however, that the Sheraton's income stream would stabilize two to three years after major reconstruction, and therefore that the choice of January 1, 1983, as the stabilization date was appropriate.

Therefore, Mr. Harps projected the Sheraton's potential income to arrive at a figure for January 1, 1983. Then he discounted that figure, using the discount rate of 16%, to arrive at a valuation for January 1, 1981. Harps did not use the actual 1981 income and expense data provided by the Sheraton in determining a stabilized figure for January 1, 1981. He used the discounted, January 1, 1983, figure alone.

Mr. Harps testified that his appraisal approach is often called an "investment analysis." It is guided by the doctrine of anticipation, so that value is defined as the present right to future benefits. Although Harps' definition of market value as set forth in his appraisal report does not include a discussion of "anticipation" or "future benefits," Harps believes that an analysis of a property's future worth is necessary to determine its present market value.

Mr. Harps testified that an appraiser must reach real estate value by evaluating the income of the business. However, he did not factor into his calculations the value of "good will." Harps admitted that if a fictional "Motel Mo" were operating the hotel instead of the Sheraton Corporation, the hotel's expenses would have been higher and its stream of income would have been lower. But he added that it was impossible to place a dollar value on the "good will" attributable to the Sheraton name.

Using the investment analysis approach, by which he first projected and then discounted the Sheraton's stabilized income, Mr. Harps estimated the value of the Sheraton's improvements on January 1, 1981, to be \$68,300,000.

The appraisal problem in this case is to find the full market value of the Sheraton's buildings on January 1, 1981. D.C. Code §47-802(4) (1981) defines "estimated market value" as "the most probable price at which a particular piece of real property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would be expected to transfer under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other." In applying this definition an appraiser may take into account any factor which might affect the market value, such as comparable sales, mortgage or other financial considerations, reproduction cost, depreciation, income earning potential, zoning, etc. D.C. Code §47-820 (1981). D.C. statutes and regulations allow assessors wide leeway in collecting and using data on which to base their professional estimates of market value. Their judgment is limited only by professional choice of method and statutory directives requiring fairness and equalization among properties. The Court finds the Respondent's chosen method flawed in both respects.

First, the choice of an "investment analysis" or "income projection" method is highly speculative. The Court recognizes that much of real estate appraisal is educated guesswork, but it is persuaded that projection of estimated income three to four years in the future accompanied by an accounting device for discounting back the same three to four years to reach an estimate of present worth is less reliable than a method which uses actual income figures for a six month period to project anticipated income for the immediately subsequent six month period in order to determine value at the midpoint. Mr. Harps' method seems to increase the risk that the District will base taxation on prospective value, rather than actual market value as of January 1, 1981. Prospective value cannot properly be made the substantive basis of an assessment, but can be considered only to the extent that it enters into, or is reflected by, present value. Adde Co. v. Grogan, 79 A.D.2d 856, 434 N.Y.S.2d 489 (4th Dept. 1980).

Although a prudent purchaser would not neglect to look at the present income yield of property so that future profits could be judged, the anticipation of those future profits does not necessarily indicate the actual present worth of the property. The anticipation that, at a given time in the future, the property would yield a larger income, would be an inducement to give more than its present actual value. Yet paying more for the present, based upon anticipation of the future, would be speculative rather than real, dependent upon a variety of circumstances and potential casualties. An assessor, making yearly valuations of property, should consider only those factors bearing upon value at the valuation date. Increases in value over time can be taken advantage of in future assessments. Speculation as to future value cannot be upheld in the face of reliable evidence of present value.

Furthermore, it is axiomatic that the purpose of real property taxation is to place a value on, and to tax, the land and the structures it supports. There are other provisions for the taxation of business income. The business income considered by both experts is to be considered only insofar as it reflects the value of the structures. Mr. Reynolds clearly stated that his estimate of value was based primarily on room rentals. This approach is consistent with many New York cases which discuss the problem of valuation of hotel property. See People ex rel. Hotel Paramount Corp. v. Chambero, 290 N.Y. 372, 83 N.E.2d 839, re-writitur denied 293 N.Y. 919, 85 N.E.2d 61 (1949); People ex rel. Hotel St. George Corp. v. Kelly, 45 N.Y.S.2d 599 (1943), rev'd 260 A.D. 830, 49 N.Y.S.2d 374, rev'd. 293 N.Y. 898, 60 N.E.2d 30 (1944) (upholding trial court's computation of value); People ex rel. Hotel Astor v. Sutton, 159 Misc. 209, 207 N.Y.S. 746 (1935), aff'd. 256 A.D. 912, 10 N.Y.S.2d 232, leave to appeal denied 280 N.Y. 853, 21 N.E.2d 220 (1939).

New York courts have consistently held that the only income which may properly be considered as a factor in determining the valuation of hotel realty for tax purposes is income derived from rentals of space,

not from a business conducted thereon. People ex rel. Hotel Paramount Corp. v. Chambers, 289 N.Y. 372, 83 N.E.2d 839 (1949). The reasoning underlying this rule is that the income from the "hotel" reflects additional elements of management, good will, personal property, and services which are not properly the subject of a real property tax.

This Court is not persuaded that Mr. Harps eliminated all the elements of income attributable to the business, rather than to the realty, when formulating his income projections. For example, Harps testified that he did not deduct a figure representing the element of "good will" in calculating the net income of the hotel. Reynolds did deduct a "good will" amount, using a percentage of net income that is suggested in appraisal technique manuals. Harps never stated that his income projections were based solely on income attributable to the rental of space. Moreover, Harps' prior testimony that he did not choose the construction cost method of assessment precisely because it did not accurately reflect "business income," lends weight to the conclusion that Harps did not properly separate realty income from business income. These factors lead the Court to conclude that Mr. Harps' chosen method of appraisal is speculative and may improperly consider elements of business, rather than realty, income.

Second, Mr. Harps testified that the District's assessors, to his knowledge, did not use his "investment analysis" method for determining the taxable value of other hotel properties. He testified that he understood that the assessors regularly used the income and expense statements provided by the hotels for the prior year, and then projected the expected income for one year to reach a valuation for the next tax year. This method is closer to the one used by Mr. Reynolds, than to the one chosen by Mr. Harps. The method of assessment of the Washington Sheraton's property should be as close as possible to the method used to assess other District hotels in order to promote fairness and equalization.

After careful consideration of the testimony of both expert appraisers, the Court is persuaded that the method chosen by Mr. Reynolds is more accurate. Therefore, the Court finds that the plaintiffs have proved by a preponderance of the evidence that the estimated market value of the Sheraton's improvements on January 1, 1981, was \$48,150,000.

V.

Although the case before the Court is a challenge to the 1982 Tax Year assessment only, under District of Columbia v. Burlington Apartment House Co., 375 A.2d 1052 (D.C. App. 1977) a trial court's determination of the value of a parcel of property subject to taxation in the District of Columbia in a given tax year remains binding on the District's assessors for subsequent tax years until a genuine reassessment of the property has taken place. Accordingly, this Court's determination of the January 1, 1981, estimated market value of the Sheraton property is the basis for taxation in Tax Year 1982 and in all subsequent tax years unless there has been a lawful reassessment of the property.

VI.

This Court, having made its findings of fact and conclusions of law, this 28th day of April, 1983,

ORDERS:

1. That the full market value for the land and improvements of the subject property, designated as Lot 32 in Square 2132, for purposes of District of Columbia real property taxation for the Tax Year commencing July 1, 1981, and ending June 30, 1982, is as follows:

Land - \$13,400,000

Improvements - \$40,150,000

TOTAL - \$61,550,000

2. That the Respondent, District of Columbia, modify the assessment record card for the subject property to reflect the values here attributed to it for the period July 1, 1981, to June 30, 1982 (Tax Year 1982).

3. That the Petitioner, Washington Sheraton Corporation, is entitled to a refund of the taxes paid, with interest, on the property to the extent that it was improperly overassessed by the District.

4. That the Respondent shall submit a Proposed Order setting forth the amount of the refund due pursuant to this Court's valuation of the Sheraton property, within ten days of the date of this Order.


JUDGE THELMA G. BARNES

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RECORDED