Opinion No. 1237

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Tax Division

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA TAX DIVISION
MAY 17 1985
FILED

VOGUE TRAVEL, INC.,	:	
Petitioner,	:	
v.	:	Tax Docket No. 3449-84
DISTRICT OF COLUMBIA,	:	
Respondent,	:	

O R D E R

This matter came before the Court for trial on March 7, 1985. At the conclusion of the trial the case was submitted to the Court without argument. Petitioner seeks the equitable intervention of this Court to declare invalid respondent's correction of the assessments of petitioner's real property for tax year 1984. Petitioner further asks the Court to require respondent to restore the land values originally assessed. This Court has jurisdiction over this matter pursuant to D.C. Code §11-1202 (1981 ed.).

Upon consideration of the trial and the entire record herein, the Court enters the following:

FINDINGS OF FACT

1. Petitioner Vogue Travel, Inc. is a commercial tenant in a six-story office building and mall known as Spring Valley Center, located at 4801 Massachusetts Avenue, N.W., described for taxation purposes as, Lot 806, Square 1499.

2. Petitioner, like other commercial tenants in the office building, is subject to being billed at the end of each calendar year for additional rent by the owner. By reason of a pass-through lease operative between the owner and tenants, an increase in real property taxes assessed on the property and paid by the owner will result in an additional year end payment of rent apportioned among the commercial tenants.

3. Prior to the construction of the office building, one undivided lot, known as Lot 9, Square 1499, existed with a lot area of 121,272 sq. ft., allowable FAR of 2, zoned C-2-A (commercial building center). Prior to construction of the office building Lot 9 contained improvements of only an A&P grocery store and several smaller retail businesses consisting of 24,824 sq. ft. finished building area. In 1979 the owner of Lot 9, Square 1499 "split" Lot 9 into Lot 806 and Lot 807. Thus divided, Lot 806 contained 41,650 sq. ft. of land area and adjacent lot 807 contained 79,622 sq. ft. of land area for assessment and taxation purposes.

4. To legally facilitate the construction of the six-story office building (196,311 sq. ft. finished floor area) on the 41,650 sq. ft. of Lot 806 the owner was permitted to borrow all available and unused FAR from his adjacent, undeveloped Lot 807 for transfer to 806's development of Spring Valley Center. Lot 807 thereby was prohibited from further additional development by this crippling encumbrance.

5. The Department of Finance and Revenue (DFR) mistakenly, during the construction and after completion and occupancy of the office building on Lot 806, continued to assign the same value per sq. ft. to the land component of Lot 806 as it did to valuation of the land of Lot 807. Although Lot 807 land value was decimated by the transfer of its FAR to Lot 806, it continued to be valued the same as Lot 806.

For instance DFR assessed the value of Lots 806 and 807 in tax years 1982, 1983 and 1984 thus:

Lot 806		Lot 807	
Tax Year 1982: 41,650 sq. ft.		Tax Year 1982: 79,622 sq. ft.	
Land	$1,832,600=$44./sq. ft.	Land	$3,503,360=$44/sq. ft.
IMP.	5,180,663	IMP.	11,632
Total	$7,013,263	Total	$3,515,000

Lot 806	Lot 807
Tax Year 1983: 41,650 sq. ft.	Tax Year 1983: 79,622 sq. ft.
Land $2,030,438=$48.75/sq. ft. IMP. 5,180,662 Total $7,211,100	Land $3,881,573=$48.75/sq. ft IMP. 18,427 Total $3,900,000
Tax Year 1984: 41,650 sq. ft.	Tax Year 1984: 79,622 sq. ft.
Land $2,030,438=$48.75/sq. ft IMP. 10,361,325 Total $12,391,763	Land $3,881,573=$48.75/sq. ft IMP. 18,427 Total $3,900,000

It can be seen that in tax year 1984 DFR continued mistakenly and blindly to assess that land of adjacent Lot 807 at the precise same value ($48.75 per sq. ft.) as Lot 806, even though Lot 806 was now improved by a six story office building at the expense of Lot 807's future development, achieved by borrowing from Lot 807 all unused FAR. Further illustrated is the nominal value of improvements on Lot 807.

6. On August 16, 1983, the owner of Lots 806 and 807 by letter addressed to Robert L. Klugel, Office of Real Property Tax, Assessment Standards and Review Section, asked DFR to correct the tax year 1984 assessed values erroneously assigned by the Department to the land of Lots 806 and 807.

The letter in essence asked the Department to recognize that correct assessments of the value of the land of each lot should reflect the obvious intensity of land use of the lots, the developed FAR of Lot 806, and the exhausted potential of Lot 807.

7. On September 1, 1983, DFR responded, and issued to the owner of Lots 806 and 807 corrected bills for tax year 1984 changing the erroneous estimated market value of the land components of the lots and appropriately corrected the assessment record cards for the two lots in addressing this egregious administrative error.

8. The corrected bills for tax year 1984 now determined that the values of the land for Lots 806 and 807 were:

Lot 806 - $5,248,345 - $126./sq ft.

Lot 807 - $ 663,666 - $8.34/sq. ft.

9. The methodology used by the Department to issue corrected tax year 1984 bills reallocating and redistributing the land values of the two lots in single ownership is expressed as follows:

Land - Lots 806 and 807 total value - $5,912,011

(121,272 sq. ft. x $48.75)

Developed FAR

Lot 806 - 196,311 sq. ft. - 88.7% FAR - 4.71

Lot 807 - 24,824 sq. ft. - 11.3% FAR - 0.31
Total 221,135 sq. ft.

Lot 806: (41,650 sq. ft. land area)
$\frac{196,311 \text{ sq. ft.}}{221,135 \text{ sq. ft.}}$ = $5,248,345 or
$126 per sq. ft.

Lot 807: (79,622 sq. ft. land area)
$\frac{24,824 \text{ sq. ft.}}{221,135 \text{ sq. ft.}}$ = $663,666 or
$8.34 per sq. ft.

10. The corrections to bills for tax year 1984 issued at the request to the taxpayer were routinely accomplished by DFR as impliedly authorized by D.C. Code §47-824 (1981 ed.) and the inherent power of DFR to correct errors in assessments. The corrected 1984 tax bills affecting the values of the land components of the lots now correctly reflected the market value of the land once the Department was made aware by the owner-taxpayer of the developed FAR of the lots upon completion of construction on Lot 806.

11. The corrected bills for tax year 1984 issued to the owner-taxpayer on September 1, 1983 by DFR at the request of the owner of Lots 806 and 807 in August, 1983, lawfully redistributed the land values only, previously and erroneously determined by the Department.

owner seeking a reallocation or redistribution of the tax year 1984 values assigned to the land components of his adjacent properties. The Department acted properly to correct assessed land values for the properties wrongly arrived at and contradictory to its mission to equalize the assessment of real estate in the District of Columbia.

Once the Department was made aware by the owner of the Lots 806 and 807 in August, 1983, that the Department had assigned a tax year 1984 value to the land component of Lot 806 that did not take into consideration that an office building was located thereon, and that this six story structure was made possible by voiding any future development on adjacent Lot 807, it had a duty to act. The action taken by the Department after study recognized the absurdity of valuing the land of Lots 806 and 807 equally at $48.75 per sq. ft. for tax year 1984. The Department thereafter on September 1, 1983, lawfully issued corrected bills for tax year 1984 to the owner of the two properties that increased the land component value of Lot 806 to from $48.75 to $126 per sq. ft. and decreased the land component value of Lot 806 from $48.75 to $8.34 per sq. ft.

Petitioner-tenant asked the Court to grant the extraordinary remedy of rescinding the corrected assessments dated September 1, 1983, reallocating the land values of two lots for the reason that the corrected assessments are illegal because additional rent is collected from him thereby as the result of his contractual leasing arrangement with the owner of Lot 806. The Court is of the belief that the facts and circumstances of this case are not so exceptional, or the dilemma of the petitioner so beyond relief as to require the

Court to condemn the Department for carrying out a correction of an obvious error in its calculation of land values for Lots 806 and 807 for tax year 1984.

Wherefore, it is this 15th day of May, 1985,

ORDERED that the action of the Department of Finance and Revenue on September 1, 1983, in issuing corrected tax bills to the owner-taxpayer of Lots 806 and 807 for tax year 1984 was a valid exercise of its duty as authorized by D.C. Code §47-824 (1981 ed.) and therefore the Department's assessment of the subject property for tax year 1984 must stand.

JUDGE IRALINE G. BARNES

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