SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

DANA OTT,	:	
	:	
Petitioner,	:	
	:	
v.	:	Tax Docket No. 5560-93
	:	
DISTRICT OF COLUMBIA	:	
	:	
Respondent.	:	
	:	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

The above-captioned matter comes before the court on Respondent's Motion for Judgment following Petitioner's case. Having heard all of Petitioner's evidence the court makes the following findings of fact.

FINDINGS OF FACT

Petitioner, Dana B. Ott is the owner of the real property and improvements located at 3153 Adams Mill Road, N.W., also known as Square 2604, Lot 229. Mr. Ott purchased the property in September, 1991, ostensibly for $289,000, this is the price recorded with the District of Columbia. Petitioner in fact bought the property for $280,000, but this was unknown to the District of Columbia because it was a hidden transaction.

Mr. Ott's property was assessed as of January 1, 1992 for $266,965.

Mr. Ott met the jurisdictional requirements of filing an assessment challenge. He made a timely appeal to the Board of Equalization, he paid the challenged tax before filing a timely petition in the Superior Court, and he paid all required filing fees.

Mr. Ott's property is one of ten very similar properties on Petitioner's block, which runs

from 3141 Adams Mill Road, N.W. to 3159 Adams Mill Road, N.W. The assessments of these properties, and the assessment of Petitioner's property, were shown in Petitioner's exhibit #1. There is no question that the other properties on the block are assessed at an amount below market value. Mr. Ott's property is also assessed below market value, 92% of market value to be precise. The court finds that the neighboring properties are assessed at 95% to 73% of Petitioner's assessment. Six of the neighboring properties are assessed at 80% of Petitioner's property.

CONCLUSIONS OF LAW

Establishing the market value of real property is not an exact science, Petitioner's own expert testified to that fact. In the process of assessing real property, equalization is to be strived for, but cannot be achieved with exact precision. The standard repeated throughout the caselaw is that there must be "intentional, systematic undervaluation" of taxable properties in the same class as the complaining petitioner's. "Mere errors of judgment by officials will not suupport a claim of discrimination." Sunday Lake Iron Co. v. Township of Wakefield, 247 U.S. 350, 353 (1917). The Court in Sunday Lake also stressed that it was necessary to look to the valuation of other land "throughout the county," not just on one street. Id. Ten years later, this view was confirmed in Sioux City Bridge Co. v. Dakota County, 260 U.S. 441 (1922).

In Allegheny Pittsburgh Coal Co. v. Webster County, 488 U.S. 336, 341 (1989), on which Petitioner relied heavily, the Court found that in order to succeed on a claim of discrimination, one would have to show "dramatic differences" in assessments, where other properties are assessed at a "minor fraction" of the assessment being complained of.

The Court in Allegheny Pittsburgh Coal went on to say, "the constitutional requirement is the seasonable attainment of a rough equality in tax treatment of similarly situated property owners." Allegheny Pittsburgh Coal, 488 U.S. at 343. The Allegheny Pittsburgh Coal Court relied on Sunday Lake, 247 U.S. at 353, and required that a petitioner show "intentional systematic undervaluation," of petitioner's property and of comparable property throughout the county. Again, this court notes the focus on a county-wide sample of comparable properties, rather than on a smaller area.

The District of Columbia Court of Appeals has adopted these Supreme Court standards. The standard of "intentional overvaluation" was enunciated by the D.C. Court of Appeals in Washington Post Co. v. District of Columbia, 596 A.2d 517 (D.C. 1991). The Washington Post court relied on the standard of "rough equality" set forth in Allegheny Pittsburgh Coal, supra, and further held that "Errors of judgment and reasonable mistakes are not enough to deny a taxpayer equal protection." Washington Post, 596 A.2d at 522. In line with the other cited cases, the court in Washington Post relied on the Sunday Lake analysis and required a showing of "intentional violation of the essential principle of practical uniformity." Id.

District of Columbia caselaw also recognizes the importance of looking at more than a few properties when evaluating equalization. In District of Columbia v. Green, 310 A.2d 848 (D.C. 1973), the court stressed that the assessments of "all property owners" must be considered.

Finally, this court looks to Judge Wagner's trial opinion in Levy v. District of Columbia, Tax Docket No. 4027-88 (District of Columbia Superior Court, Tax Division, 1990). Judge Wagner discussed numerous issues in her opinion, but when all was said and done, she relied

on the recent sale of the property to establish the market value of the property. We do the same here.

In conclusion, the court finds that Petitioner has not shown an intentional, systematic undervaluation throughout the city. He has shown some undervaluation on his block, including his own home, but nothing intentional. If he could have done so by calling the assessor in his own case, he should have done so. But at this point, his case fails for lack of proof on the applicable legal standard, and does so without the need for the court to hear anything the District of Columbia might present, since that basic failure would still exist.

It is therefore by the Court this 20th day of April, 1994,

ORDERED that Judgement be, and the same hereby is, entered in favor of Respondent, District of Columbia. It is further

ORDERED that the Petition be, and the same hereby is DISMISSED.

Peter H. Wolf
Trial Judge

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