SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

PETER S. CRAIG, *et. al.,*	)	
	)	
Petitioners	)	
	)	
v.	)	Tax Docket No. 8112-02
	)	
DISTRICT OF COLUMBIA, *et. al.,*	)	
	)	
Respondents	)	

FINDINGS OF FACT

The Court finds based on the entire Record of this case that there is no substantial controversy as to the following material facts, to wit:

1. The former Department of Finance and Revenue of the District of Columbia was transferred to a new Office of the Chief Financial Officer (CFO) by legislation adopted April 17, 1995. (Public Law 104-8, § 302(a), 109 Stat. 142; D.C. Code § 1-204.24a)

2. By legislation, the CFO has the duty of "supervising and assuming responsibility for the assessment of all property subject to assessment and special assessments within the corporate limits of the District of Columbia for taxation, preparing tax maps, and providing such notice of taxes and special assessments as may be required by law." (D.C. Code § 1-204.24c (9))

3. Respondent, The Honorable Anthony A. Williams was appointed CFO in September 1995, and remained in that capacity until June 1998. (Williams Dep. 5-6, 28)

4. In the spring of 1996, property owners in Cleveland Park, Observatory Circle, Massachusetts Avenue Heights and Mount Pleasant complained about the assessments proposed for Tax Year 1997 on the ground that they were bases on across-the-board formulas which based assessments solely on only one factor – the gross building area of each house. (Exhibits PSC-2.1, 2.3)

5. This generally had the effect of reducing assessments for more expensive properties while increasing those for many less expensive houses. (*Id.*)

6. These objections led to CFO Williams sending a letter to the owners of 9,700 properties announcing that their proposed assessments were being voided. (Exhibits PSC-2.2, 2.3)

7. After investigating the matter, CFO Williams fired David B. Jackson, DFR's acting associate director, and Beatrice Gaines, its director of property assessments and placed a number of assessors on administrative leave. (Exhibits PSC-2.4-2,7; Williams dep. 23)

8. CFO Williams determined that "there were issues of gross incompetence in the Office of Tax and Revenue... It was a matter of basic competence and we put a halt to the assessments until we could build in basic processes and procedures based on best practices." (Williams dep. 10)

9. Effective on September 6, 1996, William Henry Riley was hired [by D.C. government] to serve as Director of the Real Property Tax Administration of DFR. [He has apparently served continuously in this capacity since that time.] (Riley dep. 5-6)

10. As Director of the Real Property Tax Administration, Mr. Riley has had responsibility over the Real Property Assessment Division. (Riley dep., 8-9)

11. Effective as of January 22, 1997, the Office of Tax and Revenue (OTR) assumed all of the duties and functions previously performed by the Department of Finance and Revenue. (44 DCR 2345; 9 D.C. Munic. Regs. § 300)

12. In February 1997, Mr. Riley, on behalf of the Real Property Tax Administration, sent notices to all real property owners announcing that, "because of the moratorium on [tax year] 1998 real property assessments, this assessment is the same as last year's assessment,

unless changed due to appeals decisions, new construction, or authorized adjustments." (Exh. PSC-2.8)

13. OTR's 2001 assessment notice for tax year 2002, gave no reason or rationale for the new assessments. Nor did the notice advise that the assessments were based on the use of a recently developed neighborhood multiplier applied across the board to residential properties in a single use category. OTR's notice to taxpayers stated in reference to a taxpayer's appeal rights: "the following issues should be avoided since they are not relevant to the value under appeal: comparison to past values; percent of increase ..." (Exhibit PSC-6.61)

14. The notice showed, in a column headed "Proposed Assessed Value, the value attributed to land and buildings separately and the total. The column headed "Current Assessed Value" did not show the value breakdown between land and buildings. Neither was there any

indication of the percentage increase in land value versus buildings' value. (Exhibit PSC-6.61)

15. Nowhere in this notice was there any indication of how the numbers in the proposed assessment were derived. (Exhibit PSC-6.61)

16. Nowhere in this notice was there any indication of the reason for the proposed change in assessment. (Exhibit PSC-6.61)

17. Nowhere in this notice was there a citation to the regulations or orders under which the property was assessed. (Exhibit PSC-6.61)

18. Nowhere in this notice was there any reference to the existence of any assessment-sales ratio studies or where, if at all, they could be examined. (Exhibit PSC-6.61.)

19. The notice pointed to only three sources of information – the property owner could request his own property record car (PRC) from his assessor; he could also secure a list of sales in his "neighborhood," and, finally, if he had access to a computer and was computer-literate,

he could access the assessment roll on the Internet – one property at a time. (Exhibit PSC-6.61)

20. The assessment roll was not itself placed in either the central library (Martin Luther King Library) or any neighborhood library. (Craig Affidavit ¶ 114.)

21. The notice did not suggest how the individual property owner could secure any notes and memoranda relating to the assessment of his real property, or state the basis upon which his real property had been assessed. (Exhibit PSC-6.61.)

22. Commencing with assessments for Tax Year 1999, the city was divided in to three Triennial Groups for the purpose of assessments. Triennial Group 1 was assessed in 1998 for Tax Years 1999, 2000 and 2001. Where such assessments resulted in increases in the assessed value, such increases were phased in over the three Tax Years. (Petition and Answer, paragraphs 6, 7.)

23. Such assessments served as the basis for the across-the-board multipliers or tending factors used for Tax Year 2002 assessments. (Resp. Admissions A.5 and A.6, p.3-4.)

24. In late May 1997, Mr. James A. Vinson was employed as Chief Assessor. (Riley dep. 10.)

25. On April 3, 1997, prior to Mr. Vinson's appointment, Minnetta Coles, on behalf of the Real Property Assessment Division, circulated to the assessor staff a document entitled "Marshall & Swift's MicroSolve Residential Database and Cost Approach." (Exh. PSC-5.2.) Mr. Riley described this CAMA software program as the upgraded G-1 version. (Riley dep. 14.)

26. As explained by Minnetta Coles, "We were gearing up for CAMA and getting ready to use it." (Coles Dep. 10.)

27. The Marshall & Swift MicroSolve Residential Database and Cost Approach was the method for all assessments of residential

properties (except condominiums and cooperatives) in the District of Columbia for Tax Year 1999. This included both single-family and multi-family residences. (Exh. PSC-5.2; Riley dep. 14-15.)

28. The MicroSolve CAMA System did not, however, cover the cost of buying land, pilings or hillside foundations, paving, curbs, gutters, sidewalks, fencing, landscaping or yard improvements such as walls, landscaping, yard lighting, swimming pools, etc. (Exh. PSC-5.2, p. 6.)

29. Under direction of Mr. Riley, land tables were developed and introduced for different neighborhoods and sub-neighborhoods and, within such areas, by property type ("use"). (Riley dep. 97.)

30. Such tables were determined by Mr. Vinson, who developed different across-the-board multipliers to be applied to each neighborhood or sub-neighborhood (as defined by OTR) and, within each such area, established different land values by "use" of the associated property (as defined by OTR). He also directed that such multipliers, as

applied to the median or "base lot" be increased or decreased by up to 5% based on square footage of the lot. (Tables PSC-1, 2; Exhibits PSC-5.3, 5.41.) Such values were used for land assessments throughout Triennial Group 1. (Exhibits PSC-5.41, Tables PSC-2, 3, Clindinin dep. 36-37, 39.)

31. Although Craig was granted a 10% reduction in the land assessment on his own property, no steps were taken by OTR to change its methodology. (Craig affidavit, ¶ 8.)

32. A given lot's area may include steep hills, ravines, streams, and private alleys. (Branham dep. 142.) However, for TY 2002, the only variable was the size adjustment. (Id. at 141)

33. OTR supplied its consultant Robert Gloudemans its TY 1999 assessment data and sales data for his evaluation. A study of this data shows that in 1998, the year following the TY 1999 valuation date (January 1, 1998) there were sales of 507 properties west of

Ninth Street, Northwest. The area of these sales was Central-West (the "west end" of Downtown) and then, encircling the old Federal City (bounded by Florida Avenue, formerly Boundary Street), all neighborhoods from Observatory Circle through Columbia Heights-E, which embraces all of Triennial Group 1 west of 9th Street, N.W. In this area, OTR under-assessed (i.e., estimated market value – assumed to be 90% of gross sales price – exceeded the assessment) 199 of these properties by $17,932, 867 – an average of over $90,000 per property. Of this underassessment, $15,150,806 of this burden was transferred to 308 properties OTR over-assessed (assessment exceeded the estimated market value), an average of $49,190.28 per property. (Tables PSC-5, 6.)

34. With respect to these 507 sales, higher priced properties benefited from the TY 1999 assessments. Of the sales only 9.66% (49) were within the plus or minus 5% range of the assessment (the leeway

BRPAA is directed to apply to an OTR assessment). 38.8% of the properties were under-assessed; 61.1% were over-assessed. (Tables PSC-5.) One such property in the Kalorama neighborhood, selling for $3,480,000, was assessed at 49% of its estimated market value. Another in Kalorama, selling for $332,800, was assessed at 171% of its estimated market value. (Table PSC-6, pp. 6-7.)

35. In the Cleveland Park neighborhood there were 71 sales in the same period. The TY 1999 data provided to or used by Gloudemans listed only 50 sales and ignored the other 21 for this neighborhood. (Craig affidavit ¶ 31.) Using the actual data and reducing the net sales price by 10% to reflect the costs of sale and personal property involved in the sale, the windfalls and penalties of the 1999 assessment process in this neighborhood may be quantified. The largest windfall was a benefit of over $400,000 conferred on the buyer of a $950,000 house on Highland Place, which had been assessed at 52% of its market

value. (Craig affidavit ¶ 32; Table PSC-7.) The largest penalty was incurred by the buyer of 3307 Macomb Street who paid $350,000 for his property, which was assessed at 155% of its estimated market value. (Id.)

36. The methodology used by OTR in assessing lots took no account of the lot's location on a busy or quiet street. (Craig affidavit ¶ 33.) When Cleveland Park's lot assessments are sorted by a street's traffic load (quiet or busy), the median ratio of assessment to estimated market value of a house and lot on a busy street in 1998 was almost 25% more than the ratio on quiet streets. (Craig affidavit ¶ 34, Table PSC-8.)

37. In Cleveland Park, in the three years following TY 1999 assessments, only four out of 1058 single-family houses were reassessed because of additions or renovations. (Craig affidavit, ¶ 38.)

38. OTR did not send questionnaires to all residential property owners for TY 2002 or the prior ten years regarding the status or condition of their property in connection with its assessment procedure. (Craig affidavit ¶ 37.)

39. Of building permits issued during 1998, 1999 and 2000 for two neighborhoods, Kalorama and Cleveland Park, there were approximately 97 properties with issued building permits above $50,000 or involving substantial new structure. (Ives affidavit ¶ 8.) Of the 97 approximately forty-three had estimated costs in excess of $100,000, approximately eleven in excess of $200,000. (Ives affidavit, ¶ 8, and Annex A, columns D and E.)

40. Based on OTR's Property Record Cards ("PRC's") for these ninety-seven properties as they existed after the issuance of the TY 2002 assessments which were posted on the cards (the "TY 2002 PRC's"), none of the permits was recorded in the space provided for "Permit

Date" and "Permit Type." (Ives affidavits ¶ 12 and Annex A, column G.)

41. The TY 2002 PRC's also had a blank for "Inspection Date." Of the 97 properties there were only three for which inspections were recorded, one on 9/3/98 (3245 Klingle Road) and two others with dates of "810" and "823" (2954 and 3030 Macomb Street). No other TY 2002 PRC showed any inspection of any of the 94 other properties. (Ives affidavit, ¶¶ 20-21 and Annex A, column I.)

42. About one-third of the 1998-2000 permits were identified in the TY 2003 PRC's, issued after the TY 2002 assessment had been made, under the healing "Building Permit Information." (Ives affidavit, Annex B, *passim.*) This heading also covers a column headed "Insp. Date." In every case in which a permit is cited, this blank is filled by "12/30/1899." ["1899" is not a typographical error.] This appears after permits dated as early as 1990 and as late as 2000. The form also

has a section headed "Visit/Change History." On the TY 2003 PRC's, that space is blank for the 97 properties, with three exceptions in which it is filled by a date in October 2001, of a visit for "sale verification." The 94 other TY 2003 PRC's say nothing about visits. [The TY 2003 PRC's do not mention the three inspections recorded on the TY 2002 PRC's.] (Ives affidavit, ¶¶ 19, 22-23 and Annex A, columns H and J.)

43. In all but five of the 97 cases, the TY 2002 assessments, at least when originally made, reflected the assessment in 1999 increased by the relevant neighborhood/use multiplier. Thus, 92 of those assessments ignored the permits or improvements made under them, so that they were assessed on the same across-the-board percentage as unimproved properties. In one of those five cases, the assessor made the assessment on the basis of 97% of the property's recent gross sales price (2425 Kalorama Road), so that only four cases can

be said to have reflected the impact of the permits or of the property improvements permitted. Two of the four are the only properties reported to have been inspected after 1998 (2954 and 3030 Macomb Street); the other two are 3046 Newark Street and 3133 38th Street. (Ives affidavit, ¶¶ 24-27 and Annex A, columns K and L.)

44. For tax year 2002, OTR did not apply the method commonly referred to as the "comparable sales" approach in determining estimated market value of residential properties assessed.

45. For tax year 2002, OTR did not employ the method commonly referred to as the "replacement cost" approach in determining estimated market value of residential properties assessed.

46. For tax year 2002, OTR did not employ the method commonly referred to as the "income approach" in determining estimated market value of residential properties assessed.

47. OTR had the capability of repeating for tax year 2002 the property specific MicroSolve CAMA cost approach it used three years earlier. (Reilly dep. 17.)

48. To determine assessments for residential properties (other than condominiums) for tax year 2002, OTR developed an across-the-board multiplier for each neighborhood and sub-neighborhood it had previously defined. This statistic was arithmetically derived from a neighborhood assessment-sales ratio (ASR) study, which compared sales for calendar years 1999 and 2000 with the assessments made fore the same properties for TY 2001.] (Respondent's Response to First Request for Admissions A. 27 p. 9.) The "ratio" for each property was a fraction the denominator was the sales price and the numerator was the assessment. The multiplier for each neighborhood was the median of the ratios so determined (in the case of an even number of sales, the average of the two middle sales values was taken as the

median). The reciprocal of this median value (the value divided into one) was then multiplied by the prior assessment and the product was the new assessment. This was done without regard to whether the properties were sold or unsold. (Response to Petitioners' Request for Admissions No. 25-28, 34.)

49. These ASR studies did not include all "arm's length" sales. (Admissions, A.26 and A.28, p. 9.)

50. The ASR's used by OTR compared recent assessments (generally as of the valuation date of January 1, 1998 for TY 1999-2201) with the gross selling price of the same properties. The assessments OTR used had not taken any account of any seller subsidy in the market value determination or any personal property or any fix-up costs, closing costs, real estate commissions or transfer taxes, each of which would affect the net amount received by the seller if the property were sold. (Habib affidaviat, *passim.*)

51. Among row houses, the following across-the-board increases over prior assessments were prescribed using this method:

38% Kalorama-A
43% Kalorama-B
40% Cleveland Park, Kalorama-C
34% Crestwood
26% Garfield
25.7% Central-Wet
24% Woodley
22% Observatory Circle
17% Columbia Heights-D
15% Columbia Heights-A
13% Mount Pleasant
12% Randle Heights
10% Massachusetts Avenue Heights
9.5% Forest Hills
9.4% Congress Heights-A
9% Eckington, Fort Dupont Park. Trinidad
8% Columbia Heights-B
7% Barry Farms, Columbia Heights-C
6% Anacostia, Brentwood, Hillcrest
5.9% Congress Heights-B
5% LeDroit Park
0% Columbia Heights-E, Marshall Heights

Table PSC-9, Exhibit PSC-6.5.)

52. These percentages were applied across-the-board. Thus, a row house in Columbia Heights-D (3220 – 13th Street; square 2843, lot 0059) had its assessment increased from $157,523 to $184,302 (17%) even though it sold for only $100,000 in 1998 and an inspection of the property on October 3, 2000, had determined that the building had become "uninhabitable." (Exhibit PSC-6.27a.) Another row house in the adjoining block, also assigned to Columbia Heights-D (1215 Kenyon Street; square 2844, lot 0116), which sold for $240,000 on November 3, 2000, was assessed at only $159,281. The previous assessment had been $136,138. (Exhibit PSC-6.27b.)

53. Among detached houses, the following across-the-board increases over prior assessments were prescribed:

49.2% Cleveland Park
35% Kalorama-A and Kalorama-C
29% Garfield
27% Observatory Circle
25.9% Woodley
18% Mount Pleasant

15% Crestwood
14% Fort Dupont Park-A&B
13% Marshall Heights
12% Hillcrest-C, Randle Heights
9.5% Forest Hills
9% Eckington, Trinidad
8% Massachusetts Avenue Heights
7% Hillcrest-A
6% Brentwood, Hillcrest-B
5% LeDroit Park
3% Fort Dupont Park-D
0% Anacostia, Barry Farms, Columbia Heights
-1.1% Congress Heights-B
-2% Fort Dupont Park-C
-2.7% Congress Heights-A
(Exhibit PSC-6.5; Table PSC-9.)

54. The assessment of a row house in the 1800 block of Calvert Street would be raised by 13% if on the north side of the street (Mount Pleasant), but it would increase 38% if on the south side of the street (Kalorama-C). Similarly, the assessment of a detached house on 34th Street between Massachusetts Avenue and Macomb Street would be raised by 8% if assigned to Massachusetts Avenue Heights, 27% if

assigned to Observatory Circle, 25.9% if assigned to Woodley and 49.2% if assigned to Cleveland Park. (Table PSC-9.)

55. OTR's ASR's did not include all sales. By way of example for two neighborhoods, Cleveland Park and Kalorama, OTR omitted a number of arm's length, open-market sales. In Kalorama-A the assessor deriving the multiplier omitted seven of 15 sales of detached houses. In Cleveland Park, 53 sales of 113 in total were omitted. (Table PCS-11; Table PCS-12.)

56. IAAO's "Standard on Ratio Studies" (July 1999) states that "Every arm's length, open-market sale that appears to meet the condition of a market value transaction should be included in the ratio study.

*** The sales analyst should take the position that all sales are candidates for the ratio study unless sufficient and compelling information can be documented to show otherwise. If sales are

excluded without substantiation the study may appear to be subjective."

57. The Court concludes that OTR's multiplier methodology led to discrimination in favor of more expensive properties to the detriment of owners of middle-priced and low-priced properties.

58. For tax year 2002, condominium properties were "valued based on a market comparison using a rate per square foot of a building area for each of the units to determine what the market value was." (Branham dep. 109; Craig affidavit, ¶¶ 83-88.)

59. The dollar rate per square foot factor was based on "qualifying sales" and applied per square foot to the non-sale properties. (Branham dep. 109.)

60. The rate was applied to the units in a given regime, that being the term used for a building or set of buildings under one condominium entity that allows individual ownership of each unit. (Branham dep.

54) It may be a building or it may be a set of row houses. (Branham dep. 112.)

61. In 1996, an assessor valued 9,700 properties for tax year 1997 using an assessment based solely on the square footage of the subject properties. Then Chief Financial Officer Anthony Williams, notified affected taxpayers that "the District is reviewing your 1997 real property tax assessment because errors have occurred in the assessment process used in valuing 9,700 properties." (Letter of May 31, 1996, Exhibit 2.2 [Williams dep. 6.] The assessments were voided. (Exhibits PSC-2.2, [Williams dep. 16.]

E. Hamilton

Eugene N. Hamilton
Judge
(Signed in Chambers)

September 23, 2005

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

PETER S. CRAIG, *et. al.*,	)	
	)	
Petitioners	)	
	)	
v.	)	**Tax No. 8112-02**
	)	
DISTRICT OF COLUMBIA, *et. al.*,	)	
	)	
Respondents	)	
	)	

CONCLUSIONS OF LAW AND ORDER

Upon consideration of the Petitioners' and Respondents' Motions for Summary Judgment, the papers filed in support of such motions, and Oppositions thereto, as well as the record as a whole, the Court concludes - [unless otherwise specifically stated the assessments referred to in these conclusions are assessments for Class I, residential properties in Triennial Group 1 for Tax Year 2002].

1. That this Court has jurisdiction to hear and determine this case under 42 U.S.C. § 1983, and D.C. Code §§ 11-1201, 1202.
2. That Petitioners have fully established the material allegations of their petition and that all of the actions complained of were taken by the respondents knowingly, intentionally and deliberately.
3. That the notices of proposed assessments for residential properties issued for tax year 2002 knowingly, intentionally and deliberately failed to comply with the requirements of the D.C. Code, §§ 47-801(2), 824(a) and 823(b) and elementary rights of due process under the

Constitution of the United States [A reference to "Constitution" is to the Constitution of the United States] by failing to inform the taxpayer of the basis, rationale and methodology used in reaching the proposed assessment, thus depriving the taxpayer of information necessary to exercise his rights of appeal.

4. That the notices of decision by Respondents on first-level administrative appeal were intentionally, knowingly and deliberately not accompanied by the assessors' work papers or, indeed, any explanation of the rationale of the decision made, in violation of D.C. Code § 825.01(f-1) and of due process under the Constitution of the United States, thus depriving the taxpayer of information necessary to exercise his rights of appeal.

5. That Respondents knowingly and intentionally and deliberately without notice of the taxpayers, adopted across-the-board multipliers to determine assessments for property assessments, rather than individual assessments for each specific property, thus establishing new rules governing assessments which were not the subject of rule-making proceedings as required by the D.C. Administrative Procedures Act, D.C. Code, § 2-505.

6. That Respondents knowingly and intentionally established new rules of assessments which established differing treatment of residential properties depending on classifications be neighborhood, by type or use of residential property and/or by size of lot or floor area, in

contravention of the property-specific factors required by D.C. Code § 47-820(a)(3) and in violation of D.C. Code § 47-801(1) and Petitioners' rights of equal protection guaranteed by the Constitution of the United States.

7. That, except for condominiums, the Respondents willfully, knowingly, intentionally, and deliberately established across-the-board multipliers to be applied to previous assessments, such multipliers varying by neighborhoods and/or uses as unilaterally defined by Respondents, and that this willful, knowingly, deliberate and intentional conduct violates the Petitioners' right to equal protection guaranteed by the Constitution.

8. That, in the case of condominiums, Respondents willfully, knowingly, intentionally and deliberately made assessments based on floor area alone, without complying with the property-specific requirements of D.C. Code § 820(a)(3); thus willingly, knowingly, intentionally and deliberately creating discrimination in violation of Petitioners' right to equal protection under the Constitution.

9. That the assessment-sales ratio studies used to establish multipliers to be applied to prior assessments or to the lot area or floor area of each property were invalid in that Respondents assumed, contrary to law, that the gross sales prices in the sales used in such studies, was the equivalent of estimated market value under the statute.

10. That estimated market value, as used in the D.C. Code, refers solely to the value of the real property being assessed and does not include personal property or services or taxes related to the sale of such real property that would be borne by the owner if the property were sold, such as agents' commissions, fix-up costs (or seller subsidy at closing) and transfer taxes.

11. That the assessment-sales ratio studies used to develop multipliers for Triennial Group 1 properties for Tax Year 2002 were, in any event, invalid for the purpose of developing across-the-board multipliers for assessment purpose. The Respondents knew or should have known that this process was invalid and in violation of both the Constitution and law of the District of Columbia.

12. That the assessment-sales ratio studies of record demonstrated widespread discrimination, generally in favor of more expensive property to the detriment of middle-priced and low-prices residential properties. The Respondents knew or should have known of this discrimination, but willfully, knowingly, intentionally and deliberately used this process to determine Tax Year 2002 real property tax assessment for Triennial Group I Class I residential properties.

13. That the discrimination shown on this record has been due in large part to Respondents' willful knowing, intention and deliberate failure to reassess residential properties when additions or renovations have been made, to periodically inspect both the exterior and interior of

residential properties, and to regularly and systematically send questionnaires to owners of residential properties, with the result that Respondents had inaccurate and incomplete data with which to make proper assessments for Triennial Group 1 residential properties for Tax Year 2002.

14. That the discrimination shown on this record has been compounded by Respondents' willful knowing, intentional and deliberate failure to inspect and reassess residential properties when major building permits have been issued for additions or renovations, in violation of 47 D.C. Code § 829(e)(2), with the result that the Tax Year 2002 assessments for Triennial Group 1 unlawfully discriminated between improved and unimproved properties. The Respondents knew or should have known of this discrimination and knowingly and intentionally used the process nonetheless.

15. That the purpose of the requirement in the D.C. Code § 47-823(c), that Respondents prepare and publicize assessment-sales ratio studies is to evaluate the level and uniformity of past assessments by comparing them with sales subsequent to the valuation date. Such studies are not intended to be used for subsequent across-the-board multipliers for changes in future assessments.

16. That the assessments made by Respondents for Class I residential properties in Triennial Group 1 for Tax Year 2002 are arbitrary, capricious, an abuse of discretion, and otherwise not in conformity with

the Constitution of the United States or the law of the District of Columbia, and are, therefore, void.

ACCORDINGLY, on the issue of lawfulness of the assessments the Court **grants** the Petitioners' Motion for Summary Judgment and **denies** the Respondents' Motion for Summary Judgment.

It is, therefore, by the Court

ORDERED:

1. That each side within 14 days of the date of this Order submit to the Court its Proposal of Notice to all Triennial Group 1 2002 Tax Year Tax Payers of the pendency and status of this case and their rights;
2. That within 21 days of this decision, the Petitioners submit to this Court their proposal for appropriate relief, in the form of equitable relief, refunds or damages, or otherwise; and
3. That Respondents submit their counter-proposal within 21 days thereafter; and
4. The Petitioners submit their reply within 14 days thereafter; and
5. That the question of relief be argued on **November 28, 2005**, at **11:30 a.m.** before the Court;
6. Final Judgment for the Petitioners, as the class is finally determined, will be entered upon determination of relief to be granted to such final class.

SO ORDERED.

Eugene N. Hamilton
Judge
(Signed in Chambers)

September 23, 2005

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

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PETER S. CRAIG, *et al.*,	)	
	)	
Petitioners	)	**Tax Docket No. 8112-02**
	)	**Judge Eugene N. Hamilton**
v.	)	
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DISTRICT OF COLUMBIA, *et al.*,	)	
	)	
Respondents.	)	
	)	
POLLY H. ERNST, *et al.*,	)	
	)	
Petitioners	)	**Tax Docket No. 8141-02**
	)	**Judge Eugene N. Hamilton**
v.	)	
	)	
DISTRICT OF COLUMBIA, *et al.*,	)	
	)	
Respondents.	)	
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FINAL JUDGMENT AND ORDER

Upon consideration of the Petitioners' prayers for relief, Respondents' papers in opposition thereto, as well as the record as a whole, the Court finds, pursuant to Superior Court Civil Rule 54(b), that there is no just reason for delay in judgment on claims relating to tax year 2002 and directs that final judgment shall be rendered therein, wherefore, it is

ORDERED:

1. **That the Respondents shall make refunds, in the manner spelled out below, to all owners of Class 1 residential properties in**

Triennial Group 1 who were finally assessed at a higher level in tax year 2002 than in tax year 2001 and who paid taxes on such higher assessment.

2. That such refunds shall be calculated based on the dollar difference between the tax paid for tax year 2001 and for tax year 2002, after taking into account any applicable change in the senior or homestead exemption eligibility of the taxpayer.
3. That such refunds shall also bear interest at 6% from the date the Craig petition was filed, September 30, 2002, to the date the refund is paid to the taxpayer.
4. That, notwithstanding paragraphs 1-3, there shall be no refunds to taxpayers who failed to pay all tax year 2002 taxes and interest and penalties thereon. The payment of taxes by tax sale does not constitute payment of taxes.
5. That the refunds (including legal interest) shall be in the form of cash payments to all taxpayers in the case of all properties, which were so assessed for tax year 2002 and who paid all the tax year 2002 taxes, interest and penalties. The payment of taxes by tax sale does not constitute payment of taxes.
6. That the Respondents shall, within sixty (60) days of this judgment, prepare a listing of all parcels entitled to a refund under this Order, showing the square and lot numbers, street address, name of owner, the address of the owner in tax year

2002, the new address of the former owner where the parcel has been transferred since tax year 2002 (if known), the previous assessment for tax year 2001, the voided assessment for tax year 2002, the difference in amounts, an indication of whether or not the property was accorded a homestead or senior exemption in tax year 2001 and/or 2002, and the amount of the refund (before interest). For each parcel, the Respondents shall prepare a revised tax year 2002 bill containing this information for each parcel. This revised bill and the associated refund check (including interest) shall be mailed separately, as provided in Paragraph 8.

7. That the Respondents shall file the listing in paragraph 6 with the Court and serve a copy thereof upon counsel for the petitioners in electronic form. The Court copy shall be on a USB 2.0 memory stick.

8. That within 90 days of the date of this Judgment, the Respondents shall issue and disburse checks in payment of such refunds (including interest) and revised tax year 2002 tax bills to owners of affected parcels who were also tax year 2002 taxpayers and to tax year 2002 taxpayers who are no longer owners, but whose addresses are otherwise known to the Respondents.

9. That, in the case of former owners whose present address is unknown, that the Respondents, at their expense, shall within 30 days of the date of this Judgment publish a list of such owners, with their eligible refunds, in the *Washington Post* and in the D.C. Register, notifying them of their right to claim the refund, with the advice that such refund may be obtained by complying with procedures recommended by the parties and approved by the Court.

10. That, within 30 days from the date of this Order, the Petitioners are to submit a memorandum concerning their prayer for costs and reasonable attorneys fees, that Respondents are to submit a memorandum in opposition thereto, if any, within 20 days of service of Petitioners' memorandum. The Court shall then enter an Order as to costs and attorney fees to be paid to counsel for petitioners and who shall be liable for such attorney fees and costs.

11. That this is a final appealable Order.

12. That, pursuant to agreement by the parties, execution of this Order is stayed under Superior Court Civil Rule 62 pending completion of all appellate rights and procedures.

SO ORDERED.

Eugene N. Hamilton
Judge

January 12, 2006

Copies to:

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FILED

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

2006 JAN 13 P 3:40

PETER S. CRAIG, *et al.*,	)	
	)	
Petitioners	)	**Tax Docket No. 8112-02**
	)	**Judge Eugene N. Hamilton**
v.	)	
	)	
DISTRICT OF COLUMBIA, *et al.*,	)	
	)	
Respondents.	)	
	)	
POLLY H. ERNST, *et al.*,	)	
	)	
Petitioners	)	**Tax Docket No. 8141-02**
	)	**Judge Eugene N. Hamilton**
v.	)	
	)	
DISTRICT OF COLUMBIA, *et al.*,	)	
	)	
Respondents.	)	

ORDER

The Respondent, the District of Columbia, is hereby

ORDERED:

1. **To mail, by first class mail marked forward if necessary within ten (10) days of the date of this Order, the attached Notice of Pending Class Action Law Suit to each taxpayer member of the class of this class action Law Suit at such taxpayer's residence, at the time of the last payment of the tax which is the subject of this action or such taxpayers last known address.**

2. To publish within ten (10) days of the date of this Order in the *Washington Post*, Metro Section on a non-holiday, the attached Notice.

3. To file a verified copy of such Notices with the Court within fifteen (15) days of the date of this Order.

SO ORDERED.

E. Hamilton

Eugene N. Hamilton
Judge
(Signed in Chambers)

January 12, 2006

Copies to:

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Washington, D.C. 20016

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FILED

NOTICE OF PENDING CLASS ACTION LAWSUIT

2006 JAN 13 P 3:40

TO: All owners of residential properties in Triennial Group 1 who paid real property taxes for Tax Year 2002 (October 1, 2001 through September 30, 2002)

NOTICE OF LAWSUIT: There is now pending before Senior Judge Eugene N. Hamilton class actions challenging the lawfulness of increased assessments made on residential properties for Tax Year 2002. The cases are captioned *Peter S. Craig, et al.*, D.C. Superior Court Tax Docket No. 8112-02, and *Polly Ernst, et al. v. District of Columbia, et al., Tax Docket No. 8141-02.*

COURT DECISION: By decision issued September 26, 2005, Judge Hamilton granted summary judgment to the petitioners, finding that the increased assessments for tax year 2002 were arbitrary, capricious, an abuse of discretion and otherwise not in conformity with the Constitution of the United States or the laws of the District of Columbia, and are, therefore, void. At a hearing on proposed relief held on November 30, 2005, Judge Hamilton has decided to order refunds of the *increase* in taxes paid for tax year 2002 over tax year 2001. Such refunds will also include annual interest at 6% from September 30, 2002. The District government will appeal the judgment, which will be stayed until the D.C. Court of Appeals decides the government's appeal.

CLASS MEMBERS: Judge Hamilton defined the class of petitioners as follows: "[T]he owners of Class 1 residential real properties located in the District of Columbia in neighborhoods encompassed in former Triennial Group 1, as defined by the Office of Tax and Revenue of the District of Columbia,[1] with respect to real property assessments and taxes levied for tax year 2002, where such taxes and all penalties have been previously paid. * Such class includes only those real property owners who were adversely affected by the use of the alleged unlawful assessment methodology."**

If your tax assessment for residential real property within Triennial Group 1 was increased in tax year 2002 over year 2001, you were "adversely affected" and, therefore, a member of the class, unless you failed to pay all taxes and penalties levied for tax year 2002. If your property had no prior assessment, or if your assessment was the same or was reduced, you are not a member of the class.

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[1] Neighborhoods 2-Anacostia, 3-Barry Farms, 5-Brentwood, 10-Central, 13-Cleveland Park, 15-Columbia Heights, 16-Congress Heights, 17-Crestwood, 19-Eckington, 21-Forest Hills, 22-Fort Dupont Park, 24-Garfield, 28-Hillcrest, 29-Kalorama, 31-LeDroit Park, 33-Marshall Heights, 34-Massachusetts Avenue Heights, 36-Mount Pleasant, 38-Observatory Circle, 43-Randle Heights, 52-Trinidad and 55-Woodley.

The court may at a later date allow costs and attorney fees to be paid from the Petitioners actual recovery, by the Respondents or both.

WHAT DO YOU DO: If you have been adversely affected by the 2002 assessments, to remain in the class, you need do nothing. You may, however, if you so desire enter an appearance through your own counsel to protect your interests as a member of the class. To remove yourself from the class and waive any claim for financial redress, you need to "opt out" from the class by filling out and mailing the form below to the Clerk of the Court no later than 60 days from the date of this Notice. If you were not adversely affected, then you are not a member of the class and need do nothing.

If you are a member of the class, but are no longer the owner of the property on which you paid 2002 taxes, you should also return the form to inform the Court of your current address.

To opt out of the class or to report a new address, you should send the following form to:

Clerk, Tax Division of the Superior Court
500 Indiana Avenue, N.W.
Room 3130
Washington, D.C. 20001-2131

In Re: Craig, et al., v. District of Columbia, et al., Tax Docket No. 8112-02, and *Ernst, et al., v. District of Columbia, et al.,* Tax Docket No. 8141-02.

Fill in the appropriate boxes:

[ ] I hereby remove myself from the class and waive any claim for financial redress to which I would otherwise be entitled under the Court's final Order.

[ ] I have moved since 2002 and my present address is shown below.

(Name of Oner/Owners) (Print) _____

(Address of Owner) _____

_____

(Address Property) _____

(Square and Lot Number) _____

(Neighborhood) _____

(Sign and Date) _____