NO. CV 02 0514691S	:	SUPERIOR COURT
715 ½ NEW BRITAIN AVENUE CORPORATION	:	JUDICIAL DISTRICT OF
v.	:	NEW BRITAIN
TOWN OF NEWINGTON	:	NOVEMBER 25, 2003

MEMORANDUM OF DECISION

This is a real estate tax appeal brought by the plaintiff, 715 ½ New Britain Avenue Corporation, challenging the valuation placed upon a shopping center it owns known as Twin City Plaza. The subject property, located at 719 New Britain Avenue in the town of Newington, was valued by the town assessor, as of the last revaluation date of October 1, 2000, at $2,074,300.

Plaintiff's shopping center contains a 52,938 square foot "L" shaped building constructed on 4.9 acres of land. The land site of the property consists of a surface parking area of 120,000 square feet. The shopping center was constructed in 1960 and underwent major renovations in the 1990's. The subject property is located in an industrial zone in the southwest portion of the town of Newington near the New Britain town line. Location is an important aspect of a retail shopping center. The Appraisal of Real Estate (10^{th} Ed. 1992) pp.179-80. The subject property is not in a good location for commercial use because it is located in a mixed neighborhood of industrial, commercial and residential uses lacking the availability of a more active arterial road system. (Plaintiff's Exhibit B, p. 11.) Plaintiff's appraiser, Arnold J. Grant (Grant), notes that: "The utility of the subject's frontage along New Britain Avenue is limited due to imperfect topography . In the vicinity of the eastern portion of the subject New Britain Avenue rises relatively steeply, to cross above the railroad tracks. As a result the commercial exposure of the subject is imperfect." Id.,14.

Grant noted that the subject shopping center was originally anchored by a grocery store and drug store. Anchor stores typically bring in a high volume of traffic to the benefit of the smaller tenants located at the subject property. Grant concluded that when the grocery store and the drug store moved out of the subject center, the center was at a disadvantage by taking away a motivation for prospective tenants to locate in this center. As a result of the loss of the two anchor tenants, the center has had a long history of vacancies. Grant puts the vacancy rate of the subject in the range of 40 percent in 2002. The town's appraiser, Richard W. Fiengo (Fiengo) noted that, as of October 1, 2000, the subject property was 61 percent occupied. (Defendant's Exhibit 1, p. 41.) The high vacancy rate has a direct effect on the owner of the subject because it puts the owner at a disadvantage in negotiating the lease rate as well as securing reimbursement from the prospective tenants for property taxes and operating expenses. (Plaintiff's Exhibit B, p. 41.)

Both the town's appraiser, Fiengo and the plaintiff's appraiser, Grant agreed that the cost approach was not appropriate to use in the valuation process for the subject property as of the date of the last revaluation. We concur. Both appraisers used the sales and income approaches to arrive at a fair market value of the subject property.

We have reviewed the comparable sales selections made by both appraisers and conclude that for the most part, the selections are not in locations similar to the subject, which we consider extremely important to the valuation of the subject. As an example, Fiengo's three selections are located on the Berlin Turnpike in Berlin and on Queen Street in Southington. Both of these locations are on high volume traffic roads with good exposure to the roads. Grant's selections are better located and have vacancy problems similar to the subject, but we consider the income approach to value used by both appraisers to be a more credible process in determining the fair market value of the subject as of October 1, 2000.

Using the income approach to value, both appraisers considered the market rent of the property and the contract rent. Grant concluded that, as of the date of the last revaluation, the contract rent was reflective of the market rent and arrived at a per square foot per year rent of $7.25. Grant's finding of $7.25 per square foot for the subject rent included reimbursement of limited portions of property taxes and common area expenses. Fiengo did not examine the leases of the tenants at the subject property but he did have the rent rolls. Based of Fiengo's market research, he concluded that a base market rent of $7.00 per square foot on a triple net lease basis and a common area maintenance recovery of $1.50 per square foot was appropriate.

We agree with Grant's selection of the market rent for the subject property at

$7.25 per square foot per year, which includes the tenants' reimbursement for taxes and common area expenses. This finding results from the continued large number of vacancies caused by the location of the subject and the decline of the neighborhood shopping centers shown by the comparable sales selected by Grant. The only other significant difference between the direct capitalization approach used by Fiengo and Grant was the selection of the vacancy rate. Grant used a vacancy rate of 40 percent, which was consistent with the conditions that existed at the subject property at the time of the last revaluation and continues on to the present. Fiengo took a more conservative approach to the vacancy factor. Fiengo found that the shopping center had a 39 percent vacancy as of October 1, 2000, but he concluded that with an aggressive marketing plan and appealing rental rates the vacancy factor in the future could be reduced. Fiengo may be right that an aggressive marketing plan may change the vacancy factor in the future, but plaintiff's Exhibit E showed a marketing effort in January of 2001 which apparently was not successful. We suspect that with a long standing large vacancy factor, the rents will have to be lowered to attract tenants thereby further eroding the projected gross income of the property.

With these considerations in mind we determine the valuation of the subject property, using the income approach as follows:

Income			
	Potential gross income:	52,938 sq. ft. at $7.25	$383,801
	Vacancy and credit loss:	39%	149,682
	Effective gross income:		$234,119
Expenses			
	Operating expenses:		$ 82,477
	Net operating income:		$151,642

Capitalization rate:	13.0%
Value:	$1,166,477

Accordingly, we find the fair market value of the subject property as of October 1, 2000 to be $1,166,477. Since we determine by our finding that the plaintiff has been aggrieved by the valuation placed upon its property by the assessor as of the date of the last revaluation, judgment may enter in favor of the plaintiff without costs to either party.

Arnold W. Aronson
Judge Trial Referee