

NO. CV 02 0099002S : SUPERIOR COURT
MARTIN WOLMAN : JUDICIAL DISTRICT
 : OF MIDDLESEX
v. :
 : AT MIDDLETOWN
TOWN OF DEEP RIVER : AUGUST 5, 2004

MEMORANDUM OF DECISION

This is a real estate tax appeal brought by the plaintiff, Martin Wolman, contesting the valuation placed upon his property by the assessor for the town of Deep River as of the last revaluation date of October 1, 2001. On that date, the assessor for the town of Deep River valued the subject property at \$1,651,714, whereas the plaintiff claims that the value should be \$1,345,000. The board of assessment appeals has previously revised the value of the subject to \$1,644,800.

The plaintiff purchased the subject property at 401 River Road on September 18, 1998 for \$955,000. 401 River Road lies just north of the town line between the town of Deep River and the town of Essex. The rectangular site contains 3.1 acres of land with a road frontage of 189.92 feet and a frontage on the Connecticut River of 210 feet. The site contains a two story single family residence constructed in 1987 incorporating an existing dwelling that was renovated for use as a guest house. The dwelling contains a total of 3,747 square feet. There is a wrap around wood deck overlooking the Connecticut River containing 1,302 square feet. The dwelling has an attached two car, 576 square foot garage. There is also a 1,494 square foot basement level, which includes a finished area of 495 square feet.

The town's appraiser, Robert J. Flanagan (Flanagan), describes the layout of the subject as follows:

"The first level contains an entry, an open living room, dining room, a kitchen and a half bath. The house has much glass on the rear of the structure and most first level rooms open out onto wood decks. The entry has double doors and has limestone flooring. The living room area has a water view from three sides and a polished limestone fireplace. The half bath has antique style fixtures. The kitchen area has good quality Rutt cabinets, tile counter tops and is fully applianced featuring a Jenn-Air cook top and sub-zero refrigerator. There are hardwood floors in the kitchen and cherry floors in the dining room. The upper level contains a master bedroom suite, has a cathedral ceiling, double walk-in closets with skylight and a full bath with ceramic tiling, pink marble counter tops and heated towel rods. The second bedroom has a full bath with heated towel rods and a large walk-in closet with washer and dryer. The attached guest house has a cathedral ceiling, living room, a second level bedroom and a full bath. The kitchen is open to the living room.

“The basement is accessed by a full stair and has a walkout family room with tiled floors. There is also an unfinished basement area. Heat is provided by two hot air systems; one is oil fired, and one is gas. There is an oil fired hot water heater, air conditioning, a 200 amp electrical service, central vacuum and alarm systems. This structure has a high degree of architectural detail and high quality lighting fixtures, plumbing fixtures and wall and ceiling cover.” (Defendant’s Exhibit 1, p. 26.)

The subject property has a footbridge across a portion of wetlands going from the main site to the Connecticut River. Although a permit for the construction of a dock on the banks of the river had been previously granted, the permit has since expired.

Plaintiff’s appraiser, John F. Deveau (Deveau), considered the cost approach in determining the fair market value of the subject. We agree with Deveau that the use of the cost approach here carries little weight.¹ (Plaintiff’s Exhibit A, p. 2.)

Under the sales comparison approach, Deveau selected five comparable sales on which to base his opinion that on October 1, 2001, the subject property had a fair market value of \$1,350,000. Of the five sales selected by Deveau, only sale one and sale four are sufficiently comparable to the subject to have any credibility in considering fair market value. Sale one is a 3,882 square foot residence constructed in 1988 with eleven rooms, including five bedrooms and four bathrooms, located on Post Cove off of the Connecticut River at 173 Essex Street, Deep River. This comparable sold for \$1,500,000 on October 25, 2000. Sale one, although containing eleven rooms, has approximately the same square footage as the subject property and is in the same neighborhood as the subject. Although this sale occurred one year before the revaluation date, it is sufficiently close in

¹The subject is a fourteen year old house, remodeled in 1987. Although Deveau considers the subject to have no major physical inadequacies, in his use of the cost approach he made certain assumptions as to physical and functional depreciation that we do not find credible. (See Plaintiff’s Exhibit A, p. 2.)

time and similar to the subject to indicate market value of residential properties along the Connecticut River in Deep River. Flanagan used this same sale as a comparable.

Sale four, located at 151 River Road in Essex, is a 4.4 acre parcel of property, containing a 3,880 square foot residence. This property sold for \$1,565,000 in August of 2000.

Of the three sales we do not find to be comparable, sale two is located on Saltus Drive near the center of Old Saybrook containing only one acre of land. Sale three is a small lot containing one-half acre of land located at 24 Hemlock Drive, Essex. Finally, sale five is located across the Connecticut River in Old Lyme.

Flanagan reviewed nine property sales, all in Deep River, showing a range in price from \$900,000 to \$3,500,000. Four of these sales occurred in 1999, one in 2000, one in 2001, two in 2003 and one in 2004. Of these nine sales, Flanagan relied on sale one at 381 River Road in Deep River that sold on November 23, 1999 for \$1,705,000; sale two at 125 River Road, Deep River that sold on August 10, 1999 for \$1,100,000; sale three at 32 Doane Road, Deep River that sold on February 21, 1999 for \$1,937,500; and sale five, the aforementioned 173 Essex Street, Deep River.

Deveau makes two points in downgrading the value of the subject. The first point is that the subject is functionally obsolete because it contains only two bedrooms, which reduces the market value of residential property in the subject's neighborhood. The second point is that the 1000 gallon underground oil tank on the subject property is a potential environmental hazard that will deter a willing buyer. We disagree with this analysis. Although the main house has a master bedroom suite with bath and a separate bedroom with bath, it is not a two bedroom home. The older portion of the dwelling, referred to by both appraisers as a guest house, has been incorporated into the design of the main house, has a cathedral ceiling, living room, kitchen, full bath and a second level

loft bedroom that is also used as a study. Considering the size of the house, we are not convinced that the layout will detract from the value of the subject property. We are also not convinced that the presence of the underground oil tank will detract from the subject's value.

Considering sales one and four used by Deveau as comparable to the subject and also considering sales one, two, three and five used by Flanagan as comparables, covering a price range from \$1,100,000 to \$1,937,500, we conclude that the fair market value of the subject residence as of October 1, 2001 was \$1,450,000. In arriving at this fair market value, we were most influenced by the comparable sale selected by Flanagan at 381 River Road that sold on November 23, 1999 for \$1,705,000, and the comparable sale selected by both Flanagan and Deveau at 173 Essex Street that sold on October 25, 2000 for \$1,500,000. 381 River Road, which is two lots over from the subject, is a unique house built in 1987 with a full basement, two fireplaces, eleven rooms, five bedrooms and five and one half baths. Although similar in total square footage to the subject, this house has a unique two story tower with a roof deck overlooking the river. As Flanagan notes, “[t]he improvements on site (main house) were imported from Sweden and assembled here in Deep River by a team of Swedish builders.” (Defendant’s Exhibit 1, p. 41.)

Weighing the opinion of the appraisers and the claims of the parties in light of all of the circumstances in evidence bearing on value, we conclude that the fair market value of the subject property, as of October 1, 2001, was \$1,450,000.

Accordingly, judgment may enter in favor of the plaintiff sustaining his appeal without costs to either party.

Arnold W. Aronson
Judge Trial Referee

