

NO. CV 01 0076121S : SUPERIOR COURT
SUN VALLEY CAMPING : JUDICIAL DISTRICT OF
COOPERATIVE, INC. : TOLLAND
:
v. : AT ROCKVILLE
TOWN OF STAFFORD : SEPTEMBER 9, 2004

MEMORANDUM OF DECISION

This action is a real estate tax appeal brought by the plaintiff, Sun Valley Camping Cooperative, Inc. (Sun Valley), challenging the assessment established by the assessor for the town of Stafford, for the October 1, 2000 revaluation year. The assessor valued the subject property on that date at \$3,019,720. Sun Valley claims that the fair market value of its property, as of October 1, 2000, was \$734,100.

The subject property, which is a cooperative campground located on the east side of Old Springfield Road in the town of Stafford, contains 56.84 acres of land and has been subdivided into 275 campsites. The cooperative was organized pursuant to General Statutes § 47-200 et. seq.¹

¹General Statutes § 47-200 et. seq. is the Common Interest Ownership Act.

On February 24, 1988, Robert N. Minor conveyed 118.92 acres of land to Sun Valley Associates Limited Partnership by warranty deed recorded in the Stafford Land Records. The description of the property in this deed is shown as: “Parcel #2, Sun Valley Camping Cooperative, as delineated on boundary map, map prepared for Robert N. Minor, Old Springfield Road, West Stafford, Connecticut. . . . [D]ated August 21, 1987, revised December 22, 1987” (Defendant’s Exhibit 1, Addenda.)

On this same date, February 24, 1988, Sun Valley Associates Limited Partnership conveyed by warranty deed to Sun Valley Camping Cooperative, Inc., a Connecticut non-stock corporation, the same 118.92 acres of land previously conveyed by Robert N. Minor. This deed, recorded in the Stafford Land Records, recites: “Said real property is situated on premises submitted to and subject to the cooperative form of ownership, pursuant to the Common Interest . . . Ownership Act, as amended, pursuant to a Declaration dated February 18, 1988 entitled ‘Declaration of Sun Valley Camping Cooperative, A Cooperative Campground Community, Stafford, Connecticut by Sun Valley Associates Limited Partnership, Declarant’ and recorded on February 24, 1988 in the Stafford Land Records. Grantor deeds the premises immediately following the recording of the Declaration and hereby reserves all Units and all Development Rights created and declared therein.” (Defendant’s Exhibit 1, Addenda.)

The First Amendment to the Second Amended and Restated Public Offering and Declaration of Sun Valley Camping Cooperative, dated May 18, 1999, describes the campground as follows: “Sun Valley Camping Cooperative is a campground cooperative consisting of 551 campground unit sites to be constructed in approximately 6 phases. Phase I consists of 260 Units, Phase IIA consists of 17 Units, and Phase IIB consists of 26 Units. The remaining 248 sites that may be completed are in Phases IIC through V described in item 5 below. It should be noted that the number of Phases and the number

of Units in each Phase, may change and this schedule may not be followed.” (Plaintiff’s Exhibit B, p. 1.)

The declaration, shown in plaintiff’s Exhibit B as the Second Amended and Restated Declaration of Sun Valley Camping Cooperative, recites in section 5.3 that “[e]ach campsite unit shall contain an area of no less than 1500 square feet.” (Plaintiff’s Exhibit B, Schedule 001, p.7.) Section 9.1 provides that each unit shall be liable for 1/277 of the common expenses of the cooperative and section 9.2 further provides that each unit shall be allocated an interest of 1/277 of the total ownership of the cooperative and “[f]uture allocations of the Association ownership interest per Unit shall be a fraction, the numerator of which is one and the denominator of which is the number of campsites sold to or available for sale to the public.” (Plaintiff’s Exhibit B, Schedule 001, p. 13.)

Although Sun Valley is the owner of the subject campground, it is the partnership, Sun Valley Associates Limited Partnership, that initially sells units in the cooperative and leases campsites to the unit owners.²

²As we noted above, the warranty deed from Sun Valley Limited Partnership to Sun Valley, dated February 24, 1998, “hereby reserves all units and all Development Rights created and declared therein.” (Defendant’s Exhibit 1, Addenda.)

The management and maintenance of the campground has been delegated to the Sun Valley Beach Club, Inc., pursuant to a management agreement set out in schedule 008 of plaintiff's Exhibit B at page seven. As part of the declaration, the public offering statement recites that "[t]he ownership of a Unit in this Cooperative is an interest in the Association, plus an exclusive right to possession of a campsite unit and a membership in the Association. As a Unit Owner of a campsite unit in the Cooperative, you will not be taxed individually for your campsite; however, you may be taxed for personal property on the campsite and improvements to the campsite, such as decks. The Cooperative shall be taxed and assessed as a whole." (Plaintiff's Exhibit B, p. 3.)³

The appraiser for each party has a different understanding of the nature of the property that is the subject of this appeal. The plaintiff's appraiser, Robert R. Morra (Morra), describes the subject property as follows: "The subject consists of 56 acres utilized as campsites for the Sun Valley Camping Cooperative. The subject contains 303 cooperative campsites set up to house recreational trailers. The subject campgrounds are improved with one lane gravel roadways and bathroom shelters with showers and one bathroom without showers and an enclosed gazebo. The campground is serviced with electricity and water to each campsite. The improvements are in average condition." (Plaintiff's Exhibit J, p. 2.)

Stafford's appraiser, Dean C. Amadon (Amadon), describes the subject property

³"A cooperative owner owns stock in a cooperative corporation, which in turn owns the entire property, including the residential units and common areas. The stock ownership is accompanied by a 'proprietary lease' which entitles the owner to occupy a unit in the cooperative for which the owner is required to pay a monthly rent or 'maintenance fee.' . . . All the real estate taxes on the entire property will be assessed to the corporation. The stock owned by each cooperative owner will be in that proportion which the value of his or her residential unit bears to the value of the entire [property]." 8 R. Powell & M. Wolf, *Powell on Real Property* (2003) §54A.05, p. 54A-206.

as follows: “The property being appraised is located on the east side of Old Springfield Road in the town of Stafford, Connecticut. The site has a total land area of approximately 56.84 acres that have been subdivided into 275 individual campsites owned by a camping cooperative. The only improvements located on the property are several freestanding toilet/shower facilities.” (Defendant’s Exhibit 1, p. 1.)

Concerning the discrepancy between the appraisers as to the number of campsites, we note that plaintiff’s Exhibit A, which is a map of the subject campground and surrounding area, dated January 12, 1988 and revised on October 7, 1999 to add phase IIC, shows a phase I containing 260 lots, a phase IIA containing seventeen lots, a phase IIB containing twenty-six lots, a phase IIC containing twenty-four lots, and phases IID, III, IV and V for future development.

We also note that Schedule 009 of plaintiff’s Exhibit B, the Sun Valley Camping Cooperative Declaration, contains a list of units showing 260 lots in phase I, seventeen lots in phase IIA and twenty-six lots in phase IIB, for a total of 303 lots.

Despite the evidence presented by the plaintiff that the subject contains 303 lots, the assessor has undertaken to assess the plaintiff’s property, for tax purposes as containing 275 lots. Because the plaintiff’s appeal is from the assessor’s decision, supported by the board of assessment appeals, we consider it appropriate to use the description of the subject as set forth by Amadon, that the subject is a cooperative campground of 275 lots located on 56.84 acres of land, rather than Morra’s description of 303 lots. (See the assessor’s field card, Plaintiff’s Exhibit D.) Furthermore, the use of 275 lots is more in line with the declaration of the cooperative that imposes assessments for common expenses on a ratio of 1 to 277. (See Plaintiff’s Exhibit B, Schedule 001, p.13.)

Both Morra and Amadon concluded that the highest and best use of the subject

property was its continued use as a cooperative run camp ground. Morra, in arriving at his conclusion of highest and best use, stated: “The subject property has a unique type of ownership for a campground. The subject is a ‘cooperative’ campground. The cooperative has exclusive use of the 56 . . . acre campground. The individual members of the cooperative have exclusive use of a specific campsite and use of common facilities and grounds. The individual member of the cooperative has the right to transfer his interest in the cooperative. The campground or any portion of the campground can not be transferred by an individual member. The entire membership of the cooperative i.e., 100 [percent] of the members of the cooperative, must approve any transference of the campground.⁴ The cooperative currently has over 200 members. The probability of successfully having over 200 members agree to a sale of the campground and agree on a sales price is minuscule. The present use of the subject property can not be changed without the approval of the entire membership of the cooperative. The probability of the membership agreeing to change the present use is virtually non-existent. The limitations of the cooperative ownership imposes on the subject property qualifies the subject as a ‘special-purpose property’” (Plaintiff’s Exhibit J, p. 32.)

Determining the highest and best use of the subject property requires an understanding of the statutes governing cooperatives. General Statutes § 47-202 (10) defines a “cooperative” to mean “a common interest community in which the real property is owned by an association, each of whose members is entitled by virtue of his ownership interest in the association to exclusive possession of a unit.” “Unit” is defined in § 47-202 (32) to mean “a physical portion of the common interest community

⁴We note, however, that the plaintiff’s post-trial brief states that “[f]or the entire campground to be sold, 80 [percent] of the cooperative members must agree to the sale.” (Plaintiff’s Post-Trial Brief, dated July 2, 2004, p. 2.) This assertion is based on the testimony of Michael Minor, a member of the board of Sun Valley.

designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision (5) of subsection (a) of section 47-224.⁵ If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not thereby affected.”

General Statutes § 47-204 (a) recites: “In a cooperative, a unit owner's interest in a unit and its allocated interests is a real property interest for all purposes, except that the real property constituting the cooperative shall be taxed and assessed as a whole and a unit owner's interest shall not be separately taxed.” Since, by statute, a unit in a cooperative is a physical portion of the cooperative designated for separate ownership or occupancy, which may be sold, conveyed, or voluntarily or involuntarily encumbered or otherwise transferred by a unit owner as real property, an owner of a unit in a cooperative is subject to the payment of real estate taxes imposed, not on the value of the separate owner's interest, but rather on his or her proportionate share of the cooperative as a whole. Connecticut's Common Interest Ownership Act, General Statutes § 47-200 et seq., contemplates that the valuation of a cooperative is arrived at by multiplying the valuation of each unit by the number of units in the cooperative. This total valuation is the basis for the determination of the assessment and therefore the tax on the real estate of the cooperative to be shared by the unit owners as set out in the cooperative's declaration. The danger in valuing the individual campsites to make up the whole is that the value of

⁵General Statutes § 47-224 (5) requires the cooperative declaration to contain “a description, which may be by surveys or plans, of each unit created by the declaration, including the unit's identifying number, [and] its size. . . .”

all of the units combined could exceed the value of the entire campground. See 8 R.

Powell & M. Wolf, *supra*, § 54A.05, p.54A-196.

We agree with both appraisers that the highest and best use of the subject property is its continued use as a cooperative campground.

While Morra concluded that the highest and best use of the subject is its continued use as a cooperative campground, he ruled out the use of the market sales approach and the income approach in his appraisal. Morra did not use the market sales approach because, in his opinion, the subject is a special purpose property without comparables. He similarly ruled out the use of the income approach because the subject is not an income producing property. Relying solely on the cost approach, Morra considered the value of the land as vacant plus the depreciated value of the improvements. We fail to understand why Morra, considering his determination of the highest and best use of the subject as a cooperative campground, would not use the valuation of other land dedicated for use as a cooperative campground, rather than using three sales of vacant land in Stafford.

In using the cost approach, as recognized by Morra, the market value of the land is added to the depreciated value of the improvements. (Plaintiff's Exhibit J, p. 36.) See also Appraisal Institute, *The Appraisal of Real Estate* (12th Ed. 2001) p. 356. However, in determining the value of the land under the cost approach, the physical characteristics of the land must be considered. *Id.*, 333. In the present case, the subject property is not just vacant land, but rather property that has been developed into camp sites with utility hook-ups such as water, sewers, electricity and roads available to each camp site. "A parcel of land becomes a site when it is improved and ready to be used for a specific purpose." *Id.*, 334. Morra recognized this fact when he identified the subject as special purpose property developed for camp ground use.

Whether the market sales approach is used or the cost approach is used, a significant factor in both approaches is the market value of the land as improved for use as a cooperative campground. With this approach in mind, we examine the comparables selected by both appraisers. Morra's comparables, as we have previously noted, are based on the valuation of vacant land in Stafford. Sale one is a 38.4 acre parcel in Stafford that Morra notes is forest land with minimal development potential. Sale two is 38.35 acres of undeveloped land in Stafford purchased for future development. Sale three is a 47.47 acre parcel in Stafford that is undeveloped woodland for future development. Other than the size of the parcels of land, none of Morra's sales are sufficiently similar to the subject to be considered comparable. The subject campground, which contains water, sewers, electricity and road access, is not vacant, unimproved land such as those sales selected by Morra.

Contrary to Morra's approach to value, Amadon used the market sales approach to arrive at the value of the subject as of October 1, 2000. Amadon examined and analyzed the sale price of three cooperative campgrounds in Connecticut. The three cooperative campgrounds that Amadon looked at were Strawberry Park Campground at 42 Pierce Road in Preston, Connecticut containing 440 campsites; Indianfield Campground at 306 Old Colchester Road, Salem, Connecticut containing 228 campsites; and Roaring Brook Campground at 8 South Road, Stafford Springs, Connecticut containing 400 RV sites. (See Defendant's Exhibit 1, pp. 30-34.) Strawberry Park Campground is far superior to the subject in location, being near the Foxwoods and Mohegan Sun casinos, Mystic Seaport and the beaches of Connecticut and Rhode Island. Amadon noted the superiority of Strawberry Park by making a substantial downward adjustment in sale price per campsite of 45 percent because of location and physical characteristics. Indianfield Campground also was given a substantial 30 percent

downward adjustment by Amadon because of its superiority to that of the subject campground.

Based on his analysis of the three cooperative campground properties, and in keeping with the Common Interest Ownership Act, Amadon developed a price per campsite from \$9,000 to \$29,000 before adjustments. After making adjustments, Amadon estimated a price range per campsite between \$10,800 and \$16,445 with a probable selling price of \$11,000 per campsite. Amadon then arrived at his opinion of the subject's fair market value as of October 1, 2000, of \$3,025,000 by multiplying \$11,000 by the subject's 275 campsites.

After examining the three approaches to value - market sales, income and cost - we rule out the use of the income approach since the plaintiff cooperative is operated as a non-profit corporation. The cost approach is also of little value since it primarily deals with the cost to reproduce or replace the physical improvements on the property. The Appraisal of Real Estate, supra, p. 349. The improvements on the subject consist, for the most part, of the installation of utilities and roads. Considering the highest and best use of the subject property, we agree with Amadon that the market sales approach, where comparable sales exist, is the most appropriate method to use to determine the fair market value of the subject property.

In considering Amadon's use of the market sales approach, we find that Amadon relied on the sale of campsites that included the value of personal property located on those campsites, such as tents, mobile homes and temporary structures. Amadon separated the value of the personal property located on the campsites from the sales price to arrive at a residual value for the land. We are unclear as to the theory or formula used by Amadon in determining the value of the personal property located on the sites of his three comparables given the depreciation factors that must have existed such as original

price, age and condition. However, we do note that in his listing of campsite sales on his three comparable properties, the percentage of sale price related to the land range between 40 percent and 86 percent for Strawberry Park Campground, for an average of all sales of 68 percent; a range of 13 percent and 82 percent for Indianfield Campground, for an average of all sales of 64 percent; and a range between 2 percent and 98 percent for Roaring Brook campground, for an average of all sales of 53 percent.

We have examined the addenda to Amadon's appraisal report, which contains a listing of the subject's campsites available for sale with prices ranging from \$13,175 to \$26,000. (See Defendant's Exhibit 1, Addenda.) Amadon also listed in this same addenda the sale price of models and travel trailers on various campsites at the subject campground. These prices range from \$3000 to \$57,000. The \$57,000 site is described in the addenda as having: "Shed, Deck, Florida Room, Golf Cart, Water View." (Defendant's Exhibit 1, Addenda.) Because of the wide range of prices due to the variety of the age and condition of the personal property located on the sites, and because of the variation that exists due to the campsites location to water, views and other amenities, it is difficult to draw some rational conclusion that would relate to a single value of the individual campsites alone.

In a real estate tax appeal, pursuant to General Statutes § 12-117a, the burden of showing aggrievement is on the taxpayer. Ireland v. Wethersfield, 242 Conn. 550, 557-58, 698 A.2d 888 (1997). Even though the taxpayer has the burden of showing aggrievement, and a municipality is not obligated to justify its assessment value of a taxpayer's property, if evidence is presented upon which the court may find the taxpayer to be aggrieved, the court is free to exercise its independent judgment to arrive at a just valuation of the taxpayer's property. *Id.*, 558-59. See also National Amusements, Inc. v. East Windsor, 84 Conn. App. 473, 479-80, 854 A.2d 58 (2004). In a de novo hearing on

a tax appeal, pursuant to § 12-117a, our charge is to determine the true and actual value of the taxpayer's property by weighing all of the evidence including the opinion of the appraisers, the claims of the parties and the evidence introduced during the course of the trial bearing on value. Konover v. West Hartford, 242 Conn. 727, 735, 699 A.2d 158 (1997); National Amusements, Inc. v. East Windsor, supra, 84 Conn. App. 480. Our charge under § 12-117a, is also "to grant such relief as to justice and equity appertains, upon such terms and in such manner and form as appear equitable" Id., 476 n.3.

In trying to derive a way of establishing a fair market value of the subject, we are influenced by the fact that it is difficult to develop a clear picture of what factor the personal property located on the individual campsites plays in arriving at the residual value of the campsites. Michael Minor, who sits on the board of directors of Sun Valley and is a vice president of the Sun Valley Beach Club, Inc., is most knowledgeable about what goes on at the campground, and notes that in the year 2000, the average price for the sale of a campsite was \$18,000. Yet, the assessor for Stafford made an analysis of campground sales covering the period of October 18, 1999 to September 29, 2000, and arrived at a mean sale price for campsites of \$8,020 and a median sale price of \$7,000. (Plaintiff's Exhibit O.) Morra also produced a list of sales of campsites at Roaring Brook Campsite, with no improvements, selling between \$4,500 and \$6,000 for the year 2000.

Taking into consideration the sales of campsites located in the three cooperative campgrounds selected by Amadon, the listing of sales of the campsites on the subject as shown in Amadon's appraisal report, Minor's recollection of the average sales price of the subject campsites, the assessor's analysis of campground sales and Morra's input on sales of unimproved sites at Roaring Brook, we conclude that the value per subject campsite is \$8,000. We find this to be an equitable resolution of what turns out to be a very difficult process of balancing the requirement of § 47-204 (a) that restricts the

valuation of a cooperative to the property as a whole and not on the value of individual units. The process is also complicated by the paucity of information on the sale of cooperative campsites and the mixture of many factors, such as the type of personal property located on the sites, available utilities, amenities, location of campsites, location of the campground and management. “Although it is sometimes considered the simplest of appraisal tasks, the valuation of land requires analysis of a complex variety of factors and in practice can be the most difficult of appraisal procedures.” *The Appraisal of Real Estate*, supra, p. 331.

From all of the evidence presented, we find that the valuation of the taxpayer’s property, which increased from \$743,200, as of October 1, 1999 (Plaintiff’s Exhibit D), to \$3,019,800 as of October 1, 2000, was excessive. Therefore, the plaintiff is an aggrieved party.

Recognizing that § 47-204 (a) requires this court to value the cooperative as a whole and not the individual ownership of the campsites, we find that the fair market value of the subject, on October 1, 2000, was \$2,200,000, based upon 275 campsites having an average value of \$8,000. We decline to consider the 10 percent vacancy factor used by the assessor as shown in plaintiff’s Exhibit O, relating to the valuation of Sun Valley. We assume this vacancy factor was due to the temporary nature of the ownership of shares in the subject cooperative, giving recognition that not all of the campsites are fully leased all the time.⁶

⁶A vacancy factor caused by tenant turnover is normally used in the income approach and is attributed to the loss in gross income in the appraisal of income-producing property. *The Appraisal of Real Estate*, supra, p. 512. We note the similarity in concepts used by an assessor to determine the loss in income to an income-producing property caused by a vacancy factor and the loss in the payment of the common charges of the cooperative due to tenant turnover. However, although there will be tenant turnover in a cooperative, the burden of the payment of the common charges will fall on the unit owner of the cooperative not on the cooperative itself. We therefore see no reason why a vacancy

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

Arnold W. Aronson
Judge Trial Referee

factor should be used in determining the value of the cooperative as a whole under the market sales approach.