

OCTOBER 8, 1991

The Special Master for the Value Adjustment Board, Manatee County, Florida, convened a REGULAR hearing in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, October 8, 1991, at 9:02 a.m.

Presiding was:
Beth Antrim-Berger, Special Master

Also present were:
Susan G. French, Deputy Clerk, representing
R. B. Shore, Clerk of Circuit Court
Donald Haddock, Attorney for Property Appraiser

Representatives of the various news media were present.

The hearing was called to order by Ms. Antrim-Berger.

All witnesses/staff giving testimony were duly sworn.

91-01 DAN P. MCCLURE - GRANTED

91-02 DAN P. MCCLURE - DENIED

Bob Spencer, representing Mr. McClure, submitted two leases (4/25/90 & 5/20/91) with tenant, Donna Schomburg for the 35-acre parcel represented in petition 91-01 (7737.000/0). Ms. Schomburg maintains 20 head of cattle on the property, however, only twelve were evidenced at the time of inspection. Chickens, pigs and goats are raised and sold as part of the money-making, agricultural operation. She also raises horses.

Donna Schomburg stated she has 50-60 chickens, three sows, and one boar hog. Approximately \$2,000 was spent in 1990 to maintain the animals. Income from the operation in 1990 was \$4,000. The business is operating at a profit. The property is zoned agricultural.

Bill Roberts, Property Appraiser's Office, stated a December 1989 field report on parcel number 7927.0000/7 (petition 91-02) noted greenhouses on the front portion of the property indicating a nursery operation. No livestock or agricultural use was observed. Parcel number 7737.000/0 (petition 91-01) showed high neglected pasture, no livestock or signs of recent agricultural use. Green Belt status was removed from parcel 7737 and the unused portion of parcel 7927, but was later reinstated for 1990 upon receipt of a telephone call from Mr. McClure stating there was livestock on the Schomburg property.

He walked the property with Ms. Schomburg January 4, 1991, finding parcel 7927 unmowed and strewn with litter. Two greenhouses had been removed and the remaining structures were abandoned and falling apart. No livestock other than twelve horses were observed on parcel 7737. Based on those findings, removal of Green Belt status was recommended. Both sites were revisited and photos (taken July 1991) were submitted to confirm earlier findings. Only two head of cattle were found. All evidence indicated the property was not being operated as a viable commercial, agricultural business and thus, the reason for denial.

Ms. Schomburg stated several head of cattle were grazing in the back and front of the property during the January visit. She owns the land next to the property she leases. Twenty calves were purchased. They are kept in pens on her property until old enough to graze and then moved to the leased property. The calves are sold once they reach 7-8 months.

Mr. Spencer stated parcel 7927.0000/7 (petition 91-02) was leased for several years by a nursery operation. The premises was vacated, and another tenant was acquired. A lease (attached to petition) was entered into on February 10, 1991. Since that date, the property has functioned as a nursery business.

Cliff Sidle stated he manages a wholesale plant operation on the property. The nursery was neglected for a period of time while he was involved in building a new home.

Discussion: The greenhouse operation encompasses five acres; the property has had greenbelt status for several years; property was vacant and between tenants during inspection; no greenhouse operation was in effect as of 1/1/91.

Dan McClure, property owner, responded to questions.

Ms. Antrim-Berger stated a recommendation will be made to the Value Adjustment Board.

Susan French, Clerk's Office, advised that the recommendations of the Special Master will be available for public review on October 14, 1991. The Value Adjustment Board will convene October 18, 1991, to consider the Special Master's recommendations and to take action on all petitions.

91-10 through 15 F.A.S.S. BENEVOLENT FOUNDATION, INC. - DENIED

N. Donald Varnadore, Certified Public Accountant, attempted to submit confidential income information; however, Donald Haddock, Attorney for the Property Appraiser, objected to consideration of evidence requested in writing that was not provided to the Property Appraiser in advance. The petitions involve pasture land only and none of the tomato farming area owned by Richfield Packing Company.

James Woodson, President of Richfield Packing Company, stated 90 head of cattle on the south side of the property were sold in 1990. Forty head of cattle were placed on the north side in 1991. There are a total of 3,160 acres; however, a large percentage is wetlands. Cattle graze in certain areas due to the location of the wetlands. Tomatoes are farmed on 1,170 acres, and the remaining acreage is pasture. The land is roped off into parcels.

Mr. Roberts displayed aerial maps of the tract stating the only portion of land in question was a woodland area not being farmed.

Mr. Roberts visited the site October 1990 observing rough, native pasture with no evidence of recent agricultural use. No livestock was found. Jim Strickland, Property Appraiser's Office, toured the site January 1991 with Mr. Woodson finding all row crops lying fallow and again, no livestock was present. Denial of all pasture classifications was recommended. Photos (taken 1/23/91) were entered into the record.

Ms. Antrim-Berger stated that a recommendation will be made to the Value Adjustment Board.

91-55 W. ALBERT & BARBARA CARLTON

Testimony: Petitioner/Representative not present. Determination based upon petition.

Ms. Antrim-Berger stated no evidence was presented to overcome the presumption of correctness of the Property Appraiser, and denial of the petition was recommended.

(NOTE: Petition reconsidered later in meeting.)

91-105 L.L. MUSIK CO. - DENIED

Testimony: Petitioner/Representative not present. Determination based upon petition.

Ms. Antrim-Berger stated the petition contained insufficient evidence to overcome the presumption of correctness accorded the Property Appraiser. She recommended the petition be denied.

91-141 MRR LAND EQUITY TRUST INC. - DENIED

Charles Pratt, attorney representing MRR Land Equity Trust, stated the petition is for the Oakwood Estates apartment complex. He stated the income received and expenses incurred do not justify the assessed value.

Bill Hawthorne, Certified Public Accountant, stated the capitalized earnings approach was used factoring several years of income (Net Operating Income [NOI] of \$227,000) and applying a capitalization rate (16 percent) to arrive at a total value (\$1,423,000). Income information attached to the petition was referenced.

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Bill Kersey, Property Appraiser's Office, assessed the property by taking current Profit and Loss for 1990, including taxes as an operating expense and excluding amortization, depreciation, and interest expense for an a NOI of \$258,282; 11 percent market rate and assessment rate of 12.94 for an assessed value of \$1,996,125.

Discussion: Vacancy rate was 29 percent; expenses were 44 percent.

Ms. Antrim-Berger stated a recommendation will be made to the Value Adjustment Board.

91-118 JANE FOY BURNETT - DENIED

John Hawkins, attorney representing Mrs. Burnett, stated the property, Lots 13 and 14 of Bradley Shores, was conveyed into a living trust as reflected in the Warranty Deed (9/5/91) attached to the petition. Mrs. Burnett still resides on the property.

Ms. Antrim-Berger stated that a recommendation will be made to the Value Adjustment Board.

91-119 L.A. & MARGARET CLINE (CRAB TRAP I RESTAURANT) - GRANTED

Mr. Hawkins, stated Mr. and Mrs. L.A. Cline purchased the property, known as the Crab Trap I restaurant, located on U.S. 19, Palmetto, in March 1991, for \$70,000. The property was assessed \$168,000 (\$88,000 land; \$80,000 building).

The property cannot be used for anything but a restaurant business. Although the property is located on the water, it is not an asset as there are no windows for waterfront view. A 25-foot Department of Transportation right-of-way easement runs across the front of the property making it appear larger than it is. Cars illegally park in that area. A canal is in the back of the property. Mr. Hawkins addressed Land Development Code, Section 719.11.1, Wetland Buffers and Setbacks, requiring a fixed buffer area of 50 feet from the most landward extent. He stated the building sits within the 50-foot buffer area. In addition, there is a 25-foot construction setback which starts from the 50-foot buffer point, making a total setback of 75 feet. Therefore, the property is virtually useless from a business standpoint.

A sketch of the property and photos (2) of the parking lot, showing setback and right-of-way areas, were entered.

The property was purchased under a lease-option agreement (1978), which locked in a purchase price of \$85,000 with renewal periods. Rather than renew the lease, Mr. Cline purchased the property for \$15,000 less the lease-option figure making it an arms-length sale.

Discussion: Depreciated replacement costs were factored; comparable square footage costs; a comparable sold in 1990 for \$95,000; land value of subject property was based heavily upon the comparable sale; subject property is 39,204 square feet however, the usable square footage, minus right-of-way and setback requirements, is 24,000 square feet.

Mr. Kersey stated he is aware of the on-going problems associated with the property. Comparable sales information was submitted.

Ms. Antrim-Berger stated the information will be reviewed, and a recommendation will be made to the Value Adjustment Board.

91-3 EULIA STATHIS - GRANTED

Caleb Grimes, attorney representing Ms. Stathis, stated the 33-acre tract is owned by four individuals including his client and is held in trust. He gave a brief history of the site:

- Property has been used for raising/boarding horses since being acquired in 1971 with exception of one year for tomato farming.
- Horse breeding has been the primary use for seven years with the raising of horses after that up to and including January 1, 1991.
- Property was initially denied agricultural exemption several years ago, but was granted and has had exemption since that date.

- The boarding of horses ceased and by December 1990/January 1991, 18 acres were being used for horse breeding, and 15 acres were disced in preparation for planting hay.
- The hay seed did not germinate and only one acre of grass grew. The seed company was notified and in September, the grass was mowed and the defective seed was replaced.

Sue Stathis started the horse breeding operation seven years ago. Pure bred arabians and two stallions were acquired in 1984. As of January 1991, there were 14 horses on the back 13 acres. Two foals sold (9/90 and 4/91) for \$5,000 each. The entire property is cross-fenced. The horse operation is her only occupation. Upon receipt of a letter from the Property Appraiser advising her to stop boarding horses and plant a crop or lose green belt, Ms. Stathis discontinued the boarding operation.

Eulia Stathis stated 15 acres were divided into four pastures and seeded for the hayfield; 13 acres are used for the horse breeding; 5 acres are used to run the horses.

Discussion: Hayfield was planted with the intent of baling/selling hay; the breeding operations are fenced separately from the hay operations; expenses run from \$500-600 per month for horse feed and vet bills; breeding operation is operated with the intent of making a profit.

Mr. Grimes submitted case law regarding use of property for a bona fide agricultural purpose with a determination there must be some evidence of preparatory work (clearing, planting or cultivation) on the land.

Mr. Roberts submitted copy of a letter dated July 26, 1990, to Mr. Grimes citing a problem in ownership of the land and determination of a legitimate commercial agricultural pursuit. He visited the site June 1991 observing no substantial change from the previous year other than the land appeared disced. Copies of receipts for expensive, hard-to-grow Rhoades grass seed were referenced. As of January 1, there was no evidence of a hayfield, and to this date, the land has not changed. Pictures of the site (6/20/91) revealed only one stallion; no evidence was found to indicate a breeding operation. He stated he was unaware the petitioner had sold any horses in 1990.

Ms. Antrim-Berger stated the information will be reviewed, and a recommendation will be made to the Value Adjustment Board.

91-55 W. ALBERT & BARBARA CARLTON - DENIED

(Continued from earlier in the meeting.)

Inasmuch as the petitioner had just arrived, Ms. Antrim-Berger rescinded her recommendation on Petition 91-55 from earlier in the meeting.

Pat Flann, land manager for the Carlton family, stated the property in question is the Rusty Pot Ranch. John Albritton and his son lease the land for their cattle operation. Approximately 215 acres of the pasture land, which had been classified as agricultural and assessed \$280/acre, was reclassified as a hayfield valued at \$750/acre.

There are improved, semi-improved and unimproved pasture areas on the property. The pastures are used for grazing except for a few months each year when they are fertilized and cut for hay. The hay is then stored to feed the cattle during the fall, winter and early spring months. The hay is used on the ranch and is not sold. A letter (10/1/91) from Mr. Pelham, Business Manager, explaining this was entered into the record.

Past records show the best pasture cut for hay produced about 3.7 rolls per year. However, with market value at \$33-35 per roll and factoring \$22 per roll expense, the return per acre calculates to not much more than what can be expected from grazing cattle on pasture. Ms. Flann stated the return does not justify the increase in valuation, and feels the property should be valued the same as improved pasture.

Mr. Roberts was unaware the ranch had discontinued marketing the hay. He visited the site and observed hay being cut from 400 acres. A credit was granted for the pasture land without irrigation with exception of

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213.6 acres set up for irrigation. He stated the irrigated acreage was assessed based upon its highest and best use being a hay field.

Ms. Antrim-Berger stated that a recommendation will be made to the Value Adjustment Board.

91-110 FLORIDA LADDER - DENIED

Testimony: Petitioner/Representative not present. Determination based upon petition.

Ms. Antrim-Berger stated no evidence was presented in the petition to overcome the presumption of correctness of the Property Appraiser, and a recommendation of denial was given.

91-37 JOHN & MARY E. SMITH - DENIED

(Continued from 10/7/91)

Testimony: Petitioner/Representative not present. Determination based upon petition.

Hans Hollingsworth, Property Appraiser's Office, distributed comparable sales information to support the assessed value.

Based upon the information provided, Ms. Antrim-Berger stated the Property Appraiser's assessed value is correct and should be upheld, and therefore recommended the petition be denied.

91-63 FREDERICK J. GENTNER - DENIED

(Continued from 10/7/91)

Testimony: Petitioner/Representative not present. Determination based upon petition.

Mr. Hollingsworth submitted comparable sales data.

Ms. Antrim-Berger stated the comparables support the assessed value, and therefore recommended the petition be denied.

91-88 DAVID LAW - DENIED

(Continued from 10/7/91)

Testimony: Petitioner/Representative not present. Determination based upon petition.

Mr. Hollingsworth displayed an aerial map depicting roads, boat docks, etc. The development started in 1985 and was abandoned. The developer defaulted and the financial institution that foreclosed the mortgage was taken over by the Federal Deposit Insurance Commission. The property has been assumed by the Resolution Trust Corporation (RTC).

Discussion: Individual lots were purchased; title problems, RTC ownership, and the state of disrepair of the condominium affect the marketability of the property; subject property is 18,750 square feet; assessed value is \$67,200; petitioner estimates fair market value at \$10,000.

Inasmuch as there was no evidence to overcome the presumption of correctness by the Property Appraiser, Ms. Antrim-Berger recommended denial of the petition.

91-166 TOWNSEND R. MOREY, JR., TRUSTEE - DENIED

(Continued from 10/7/91)

Testimony: Petitioner/Representative not present. Determination based upon petition.

Mr. Hollingsworth stated the subject unit is the smallest in the complex and has view of the tennis court. A map of Club Longboat Beach and Tennis Condominium was submitted. Comparable sales were factored.

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Ms. Antrim-Berger stated no evidence was presented to overcome the presumption of correctness of the Property Appraiser and therefore, recommended petition 91-166 be denied.

91-167 TOWNSEND R. MOREY, JR., TRUSTEE - DENIED

(Continued from 10/7/91)

Testimony: Petitioner/Representative not present. Determination based upon petition.

Petition 91-167 is for adjacent Unit 314 of the Club Longboat Beach & Tennis Condominium and falls under the same scenario as Petition 91-166.

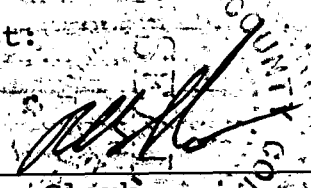
Based on the same information as provided for Petition 91-166, Ms. Antrim-Berger recommended Petition 91-167 be denied.

HEARING ADJOURNED

There being no further business, the hearing was adjourned.

Attest:

APPROVED:


Clerk


Special Master 8/11/92

Adj: 11:26 a.m.
/rll