

William H. Sheehan III

From: William H. Sheehan III
Sent: Wednesday, December 10, 2008 12:06 PM
To: Allen, Richard
Subject: RE: Little Neck sale price v. assessment

Ah, the press. First, the reported assessed value of \$56mm includes the value of 167 cottages that are owned by the tenants and not the Feoffees. Those cottages are assessed at \$17.8mm+. Secondly, the assessor has treated the 167 lots as if they were individual lots owned by 167 individual owners. That is consistent with the provisions of G.L. c. 59, sec. 2B which says, in pertinent part, the following: "(R)real estate owned in fee or otherwise held in trust for the benefit of...a...town, or any instrumentality thereof, if...leased...for other than public purposes, shall for the privilege of such...lease...be valued, ...assessed and taxed annually as of January first to the...lessee...in the same manner and to the same extent as if such...lessee were the owner thereof in fee, whether or not there is any agreement by such...lessee...to pay taxes assessed under this section;..." In essence, the statute creates a legal fiction: that the lots are individually owned; they are not so owned—the Feoffees own a single parcel of land whose fair market value is less than the value of 167 individual lots.

I suggest that you recommend to your clients to refrain from pointing out to the press or any other member of the public that the Feoffees' appraiser opined on November 10, 2008 that the market value to a third-party buyer ranges between \$10-15mm. Moreover, that same appraiser has valued the lots in the aggregate, that is, looking at the property as if there were 167 individual lots, at \$20,863,000 or \$125k per lot. The tenants are purchasing the property at roughly a thirty to fifty percent premium, depending on whether you look at the individual lots in the aggregate or as one parcel, but to so pronounce at this time will simply make it more difficult to sign the deal. Please keep in mind that the complaint for deviation will have attached to it a copy of the LandVest appraisal at which time the premium being paid by the tenants will become public record.

From: Allen, Richard [mailto:allen@casneredwards.com]
Sent: Wednesday, December 10, 2008 8:25 AM
To: William H. Sheehan III
Subject: Little Neck sale price v. assessment

Bill,

With the Little Neck assessment reported in the Salem Evening News story as assessed at \$56.6 million, could you kindly remind me with a sentence or two as to how the assessment is artificially high, ideally with a cite to the statute. This will help me help my client deal with this issue both externally and internally. The Evening News story is at

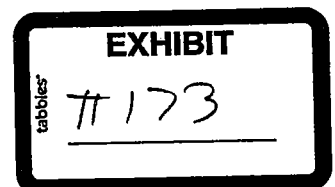
http://www.salemnews.com/punews/local_story_344115100.html

Thanks!

Dick

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