

04-1869-CD
WAL-MART STORES, INC. vs. CLEARFIELD COUNTY BOARD OF ASSESS. APPEALS

Date: 12/29/2004

Time: 11:41 AM

Page 1 of 1

Clearfield County Court of Common Pleas

ROA Report

User: BANDERSON

Case: 2004-01869-CD

Current Judge: Fredric Joseph Ammerman

Wal-Mart Stores, Inc. vs. Clearfield County Board of Assessment Appeals

Civil Other

| Date | | Judge |
|------------|--|---------------------------|
| 11/29/2004 | Filing: Civil Complaint Paid by: Goodman, Bert M. (attorney for Wal-Mart Stores, Inc.) Receipt number: 1890896 Dated: 11/29/2004 Amount: \$85.00 (Check) 1 CC to Atty. Goodman. Original to C/A | No Judge ✓ |
| 12/08/2004 | Order AND NOW, this 6th day of Dec, 2004 upon consideration of the foregoing Petition it is hereby ordered that a status conference on the appeal shall be held on the 5th day of Jan. 2005 at 9:30 AM S/FJA 1 CC to Atty. Goodman. | Fredric Joseph Ammerman ✓ |
| 12/13/2004 | Certificate of Service, copy of a Petition to Appeal from the Decision of the Clfd. Co. Board of Assessment Appeals, upon Board Assessment Appeals; Clearfield Area School District; Clearfield County Commissioners; and Sandy Township; by certified mail on December 9, 2004. Filed by s/ Bert M. Goodman, Esquire. No CC | Fredric Joseph Ammerman ✓ |
| 12/22/2004 | Praecipe Directing Intervention requesting the entry of DuBois Area School District as an Intervening Appellee and entry of appearance on its behalf of R. Edward Ferraro and Gregory M. Kruk as attorneys. S/gregory M. Kruk, Esq. 1 CC to Atty. Kruk. Copies to Atty. Kesner and Board of Assessments. | Fredric Joseph Ammerman ✓ |

Received, not Filed

BERT M. GOODMAN, ESQUIRE
Attorney I.D. No. 21559
60 Soldier Square
Wayne, PA. 19087
610-240-0345

Attorney for Appellant

WAL-MART STORES, INC.
APPELLANT

V.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
APPELLEE

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
:
:
: CIVIL ACTION - LAW
:
: NO.04-1869-CD
:

PRETRIAL CONFERENCE MEMORANDUM

PROPERTY:

WAL-MART STORE
20 INDUSTRIAL DRIVE
SANDY TOWNSHIP
CLEARFIELD COUNTY, PENNSYLVANIA
PARCEL NUMBER: 128-C03-103

ASSESSMENT: \$854,100

INDICATED FAIR MARKET VALUE:

\$4,471,728 for 2005 (STEB Ratio = 19.1%)

APPELLANT'S VALUATION: \$2,500,000

ISSUE: What is the fair market value of the subject property for
for tax year 2005.

I. SUMMARY OF THE FACTS:

The subject property is located at 20 Industrial Drive, Sandy Township, Clearfield County, Pennsylvania. The property was appealed to the Clearfield County Board of Assessment Appeals for tax year 2005. The Clearfield County Board of Assessment Appeals denied any reduction in the assessment for tax year 2005. Wal-Mart Stores, Inc. has appealed this decision to the Court.

The parcel consists of an owner-occupied Wal-Mart Store with a total gross building area of 94,336 square feet on 21.88 acres of land.

II. DISCOVERY

The Appellant has no outstanding discovery requests.

III. WITNESSES

The Appellant intends to call the following the witnesses:

1. Gary Heiland, Mid Atlantic Appraisals, P.O. Box 588, York, Pennsylvania, 17405-0588.

The Appellant reserves the right to list additional witnesses and will provide prompt notice to all parties of such addition.

IV. EXHIBITS

The Appellant intends to introduce the following exhibits at trial:

1. Appraisal report and related documents.

The Appellant reserves the right to list additional witnesses and will provide prompt notice to all parties of such

addition.

V. LEGAL ISSUES:

None.

VI. SPECIAL PROBLEMS

None

Respectfully Submitted

A handwritten signature in cursive script, appearing to read 'Bert M. Goodman', with a long horizontal flourish extending to the right.

Bert M. Goodman, Esquire

BERT M. GOODMAN, ESQUIRE
Attorney I.D. No. 21559
60 Soldier Square
Wayne, PA. 19087
610-240-0345

Attorney for Appellant

WAL-MART STORES, INC.
APPELLANT

V.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
APPELLEE

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
:

: CIVIL ACTION - LAW
:

: NO. 04-1869-CD
:

FILED
DEC 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

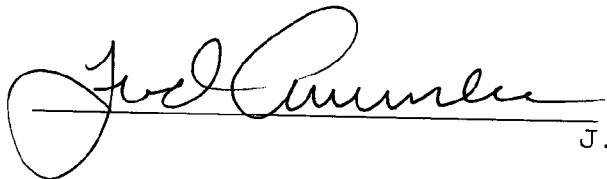
ORDER

AND NOW, this 6th day of December, 2004 upon consideration of the foregoing Petition it is hereby ordered that a status conference on the appeal shall be held on the 5th of January, 2005 at 9:30 O'clock A M. in Courtroom No. 1.

Within twenty days after the date of entry of this Court Order, the Appellant shall mail by certified mail a copy of the Petition and Order to the following: the Board of Assessment Appeals of Clearfield County, the Commissioners of Clearfield County, Sandy Township and the Dubois Area School District.

Any person or governmental agency upon whom a copy of the Petition and Order is required to be served under paragraph mentioned above may intervene in the appeal proceedings as a matter of right by filing with the Prothonotary within twenty (20) days after receipt of the copy of the Petition and Order a praecipe directing intervention either as an appellant or appellee. If such praecipe has not been filed by said person or governmental agency within the said twenty (20) day period intervention thereafter shall be governed by the Pennsylvania Rules of Civil Procedure 2326 through 2350 inclusive.

BY THE COURT:


J.

BERT M. GOODMAN, ESQUIRE
Attorney I.D. No. 21559
60 Soldier Square
Wayne, PA. 19087
610-240-0345

Attorney for Appellant

CA
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m/1104380d Amy
NOV 29 2004 Goodman

William A. Shaw Amy pd.
Prothonotary/Clerk of Courts 85.00

WAL-MART STORES, INC. : IN THE COURT OF COMMON PLEAS
APPELLANT : CLEARFIELD COUNTY, PENNSYLVANIA
V. :
CLEARFIELD COUNTY BOARD : CIVIL ACTION - LAW
OF ASSESSMENT APPEALS, :
APPELLEE : NO. 04-1869-CD

PETITION FOR APPEAL FROM THE DECISION OF THE CLEARFIELD COUNTY
BOARD OF ASSESSMENT APPEALS

Appellant, Wal-Mart Stores, Inc. by its attorney, Bert M. Goodman, Esquire, files this Petition for Appeal from the Decision of the Clearfield County Board of Assessment Appeals based upon the following statement of facts:

1. Appellant is Wal-Mart Stores, Inc located at 1301 Se 10th Street, Bentonville, Ar 72716-0555.

2. Appellees are the Board of Assessment Appeals of Clearfield County, the Board of Commissioners of Clearfield County, Sandy Township and the Dubois Area School District.

3. The Appellant, Wal-Mart Stores, Inc. is the owner of a property located at 20 Industrial Drive, Sandy Township, Clearfield County, Pennsylvania known as Clearfield County Tax Parcel Number: 128.0-C03-000-00103.

4. The Appellant appealed from the assessment on its property, located at 20 Industrial Drive, Sandy Township, Clearfield County, Pennsylvania, appealing the assessment in the amount of \$854,100 on Clearfield County Tax Parcel Number: 128.0-C03-000-00103 for the tax year 2005.

5. On November 17, 2004 the Clearfield County Board of Assessment Appeals mailed notice of its decision in which it denied any reduction on Appellant's property for tax year 2005. Attached herewith is a copy of the decision which is marked Exhibit "A" and incorporated herein by reference.

6. The decision of the Clearfield County Board of Assessment Appeals was in error and an abuse of discretion for the following reasons:

a. The assessment on Appellant's property is substantially higher than assessments of comparable properties in the neighborhood and the taxing district.

b. The assessment is based upon an erroneous determination of fair market value, particularly as it concerns Appellant's property.

c. The value determination by the Clearfield County Board of Assessment Appeals violates the Equal Protection Clause of the 14th Amendment of the United States Constitution

d. The impact of the assessment bears unequally on the Appellant when compared to assessments of properties of the same class.

e. When related to assessments of similarly situated property owners, the assessments of the property of the Appellant is arbitrary and capricious.

f. The assessment violates the uniformity clause of the Pennsylvania Constitution.

g. The assessment violates the required equality of tax treatment guaranteed by Pennsylvania Statutory and Constitutional Law.

h. The assessment is based in whole or in part upon appraisals that do not represent the actual values of the said property.

i. The ratio of assessed values to actual values applied in making the assessment is in excess of the ratio applied throughout the taxing authority.

j. The assessment as determined by the Clearfield County Board of Assessment Appeals does not reflect the current market values of the property as multiplied by the state mandated ratio as determined by the State Tax Equalization Board.

k. The assessment lacks uniformity.

l. The assessment is discriminatory.

m. The assessment is otherwise unjust and inequitable.

WHEREFORE, the Petitioner requests this Honorable Court to reverse the decision of the Clearfield County Board of Assessment Appeals, reduce the assessment and thereafter make all necessary orders and decrees to effectuate said decision.

DATED: 10/26/04



BERT M. GOODMAN, ESQUIRE
ATTORNEY FOR THE APPELLANT

VERIFICATION

Bert M. Goodman, Esquire, the Attorney for the Appellant is authorized to make this verification on behalf of the Wal-Mart Stores, Inc. and verifies that the statements made in the attached Petition for Appeal from the Decision of the Clearfield County Board of Assessment Appeals are true and correct. He understands that false statements made herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Dated: _____

11/26/04

Bert M. Goodman

Clearfield County Assessment Office
BOARD OF ASSESSMENT APPEALS



230 EAST MARKET STREET
SUITE 117
Clearfield, Pennsylvania 16830

TELEPHONE (814) 765-2641
FAX (814) 765-2640
Email- cctax@clearfieldco.org

Wal-Mart Stores, Inc.
Property Tax #0555
1301 SE 10th Street

Bentonville AR 72716-0555

NOTICE OF BOARD ACTION ON APPEALS
FROM 2005 REAL ESTATE ASSESSMENT

| | |
|----------------------------------|----------------------------|
| Appellant Name | : Wal-Mart Stores, Inc. |
| Person Appearing | : Bert M. Goodman, Esquire |
| Location | : Sandy Township |
| Map # | : 128.0-C03-000-00103 |
| Property Identification | : Bldg. & 16.926 A |
| Original 2005 market valuation | : \$3,416,400. |
| Original 2005 assessed valuation | : \$ 854,100. |
| Date of appeal hearing | : October 26, 2004 |

Dear Property Owner:

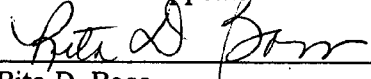
The Clearfield County Board of Assessment Appeals, having considered your appeal, has made an Order with reference to your 2005 real estate assessment as follows:

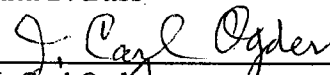
| | | |
|----------|------|---|
| Original | 2005 | Market value affirmed, without change. |
| Original | 2005 | Assessed value affirmed, without change |

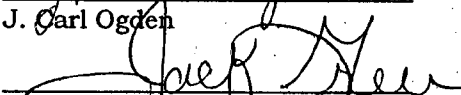
Dated: November 17, 2004

Sincerely,

Clearfield County Board of
Assessment Appeals


Rita D. Bass


J. Carl Ogden


Jack Green

MAW/jcg

A-

BERT M. GOODMAN, ESQUIRE
Attorney I.D. No. 21559
60 Soldier Square
Wayne, PA. 19087
610-240-0345

Attorney for Appellant

| | | |
|-------------------------|---|---------------------------------|
| WAL-MART STORES, INC. | : | IN THE COURT OF COMMON PLEAS |
| APPELLANT | : | CLEARFIELD COUNTY, PENNSYLVANIA |
| | : | |
| V. | : | |
| | : | CIVIL ACTION - LAW |
| CLEARFIELD COUNTY BOARD | : | |
| OF ASSESSMENT APPEALS, | : | NO.04-1869-CD |
| APPELLEE | : | |

CERTIFICATE OF SERVICE

The undersigned verifies that he is the attorney for the Appellant in the instant matter. I do hereby certify that on December 9, 2004, I served a true and correct copy of a Petition to Appeal from the Decision of the Clearfield County Board of Assessment Appeals in the above captioned case, upon the persons and in the manner indicated below, which service satisfies the requirements of the Rules of Civil Procedure, by placing a true and correct copy of the same in the United States Mail, postage pre-paid, certified mail.

Board Assessment Appeals
of Clearfield County
230 East Market Street
Clearfield, Pa. 16830

Clearfield County
Commissioners
230 Market Street
Clearfield, Pa. 16830

Clearfield Area School District
500 Liberty Avenue
DuBois, PA.15801

Sandy Township
RR #3
DuBois, Pa. 15801

DATE: _____

12/9/04


BERT M. GOODMAN, ESQUIRE

FILED

DEC 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

WAL-MART STORES, INC.,
Appellant

vs.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS
Appellee

No. 04 - 1869 C.D.

Type of Case: Civil

Type of Pleading: Praeipce

Filed on Behalf of:
DuBois Area School District

Attorney of Record:
R. Edward Ferraro

Supreme Court No. 05880

690 Main Street
Brockway, PA 15824
Ph. 814/268-2202

FILED

M 10:48 AM 10/22/04 [Signature]

DEC 22 2004

William A. Shaw
Prothonotary

*COPY TO:
Assessment
&
ATTY KEINER*

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

WAL-MART STORES, INC.
Appellant

No. 04 - 1869 C.D.

vs.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
Appellee


PRAECIPE DIRECTING INTERVENTION

TO THE PROTHONOTARY OF SAID COURT:

Please enter the DuBois Area School District as an Intervening Appellee in the above-captioned case and enter the Appearance of Attorneys R. Edward Ferraro and Gregory M. Kruk as Attorneys for the DuBois Area School District. This is in accordance with the December 6, 2004 Order of the Court in the above-captioned matter wherein it is stated that any person or governmental agency may intervene in the appeal proceedings as a matter of right by filing this Praecipe.

DuBOIS AREA SCHOOL DISTRICT

BY:


Attorney for DuBois Area School District

cc: Bert M. Goodman, Esquire

BERT M. GOODMAN, ESQUIRE
Attorney I.D. No. 21559
60 Soldier Square
Wayne, PA. 19087
610-240-0345

Attorney for Appellant

WAL-MART STORES, INC.
APPELLANT

V.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
APPELLEE

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
:

: CIVIL ACTION - LAW
:

: NO. 04-1869-CO
:

ORDER

AND NOW, this 6th day of December, 2004 upon consideration of the foregoing Petition it is hereby ordered that a status conference on the appeal shall be held on the 5 of January, 2005 at 9:30 O'clock A.M. in Courtroom No. 1.

Within twenty days after the date of entry of this Court Order, the Appellant shall mail by certified mail a copy of the Petition and Order to the following: the Board of Assessment Appeals of Clearfield County, the Commissioners of Clearfield County, Sandy Township and the Dubois Area School District.

Any person or governmental agency upon whom a copy of the Petition and Order is required to be served under paragraph mentioned above may intervene in the appeal proceedings as a matter of right by filing with the Prothonotary within twenty (20) days after receipt of the copy of the Petition and Order a praecipe directing intervention either as an appellant or appellee. If such praecipe has not been filed by said person or governmental agency within the said twenty (20) day period intervention thereafter shall be governed by the Pennsylvania Rules of Civil Procedure 2326 through 2350 inclusive.

BY THE COURT:

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

/s/ Fredric J. Ammerman

J.

DEC 06 2004

Attest.

William L. H.
Prothonotary/
Clerk of Courts

BERT M. GOODMAN, ESQUIRE
Attorney I.D. No. 21559
60 Soldiers Square
Wayne, PA. 19087
610-240-0345

Attorney for Appellant

WAL-MART STORES, INC.
INC.,

APPELLANT

V.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
APPELLEE

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
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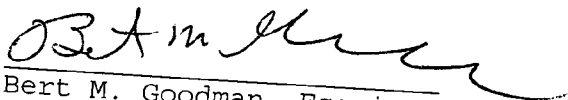
: CIVIL ACTION - LAW
:
: NO. 04-1869-CD
:

PRAECIPE TO WITHDRAW APPEAL

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Kindly withdrawal the appeal in the above captioned case and
mark the file discontinued and ended.


Date: June 8, 2005


Bert M. Goodman, Esquire
Attorney for the Appellant

FILED ^{16cc}
m/ 12:42 PM Copy & Cert.
JUN 15 2005 of Disc. to CTA
William A. Shaw
Prothonotary/Clerk of Courts
Cert. of Disc.
to Atty
②

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

 COPY

Wal-Mart Stores, Inc.

Vs.

Clearfield County Board of Assessment Appeals

No. 2004-01869-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County
and Commonwealth aforesaid do hereby certify that the above case was on June 15, 2005,
marked:

Discontinued and Ended

Record costs in the sum of \$85.00 have been paid in full by Bert M. Goodman, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at
Clearfield, Clearfield County, Pennsylvania this 15th day of June A.D. 2005.

William A. Shaw, Prothonotary