

05-1901-CD
JP Morgan vs Clearfield County Bd

JP Morgan vs Clfd Co Board of Assess
2005-1901-CD

Glen-David Schwarzschild, Esquire (PA ID 45576)
CURETON CAPLAN P.C.
950B Chester Avenue
Delran, NJ 08075
(856) 824-1001
Attorneys for Plaintiff

JP MORGAN CHASE BANK
(former Big K-Mart)

Appellant

v.

**CLEARFIELD COUNTY BOARD OF
ASSESSMENT & REVISION OF TAXES**
Appellee.

**COURT OF COMMON PLEAS
CIVIL DIVISION
CLEARFIELD COUNTY**

NO. 2005 - 1901 - 09

**REAL ESTATE TAX ASSESSMENT
APPEAL**

PARCEL #123-L-7-122

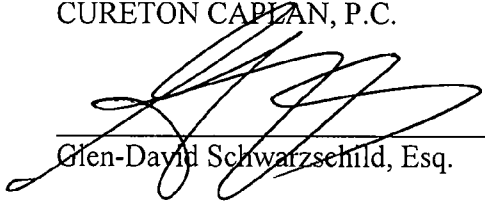
PRAECIPE FOR ENTRY OF APPEARANCE

To the Prothonotary:

Kindly enter my appearance on behalf of Appellant, **JP MORGAN CHASE BANK.**

CURETON CAPLAN, P.C.

Date: 12-5-05


Glen-David Schwarzschild, Esq.

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**William A. Shaw
Prothonotary**

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Glen-David Schwarzschild, Esquire (PA ID 45576)
CURETON CAPLAN P.C.
950B Chester Avenue
Delran, NJ 08075
(856) 824-1001
Attorneys for Plaintiff

JP MORGAN CHASE BANK
(former Big K-Mart)

Appellant

v.

**CLEARFIELD COUNTY BOARD OF
ASSESSMENT & REVISION OF TAXES**
Appellee.

**COURT OF COMMON PLEAS
CIVIL DIVISION
CLEARFIELD COUNTY**

NO. 2005-1901-C0

**REAL ESTATE TAX ASSESSMENT
APPEAL**

PARCEL #123-L-7-122

CERTIFICATION OF SERVICE

Marlene C. Levin, of full age, hereby certifies as follows:

1. I am a legal assistant with the law firm of Cureton Caplan, P.C., attorneys for Appellant, and have personal knowledge of the matters stated herein.

2. On this date, I sent for filing, via "First Class Mail", an original of the foregoing Entry of Appearance; Real Estate Tax Assessment Appeal; and Certification of Service to:

Clearfield County Assessment Office
Board of Assessment Appeals
230 East Market Street, Suite 117
Clearfield, PA 16830

Prothonotary/Clerk of Courts
Clearfield County
230 East Market Street
Clearfield, PA 16830

Clearfield Area School District Administration
P. O. Box 710
Clearfield, PA 16830

Clearfield County - Administration
230 East Market Street
Clearfield, PA 16830

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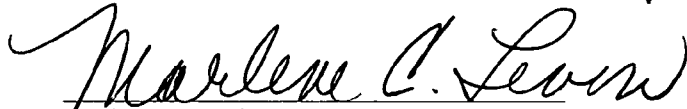
William A. Shaw
Prothonotary

1 copy to App

Township of Lawrence
2207 Lawrence Road, P.O. Box 6006
Lawrenceville, New Jersey 08648

I certify that the foregoing statements made by me are true. If any of the foregoing statements made by me is willfully false, I am subject to punishment.

Dated: 12-5-05


Marlene C. Levin, Secretary to
Glen-David Schwarzschild, Esq.

Glen-David Schwarzschild, Esquire (PA ID 45576)
CURETON CAPLAN P.C.
950B Chester Avenue
Delran, NJ 08075
(856) 824-1001
Attorneys for Plaintiff

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William A. Shaw
Prothonotary

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JP MORGAN CHASE BANK
(former Big K-Mart)

Appellant

v.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT & REVISION OF TAXES
Appellee.

COURT OF COMMON PLEAS
CIVIL DIVISION
CLEARFIELD COUNTY

NO. 2005-1901-CD

REAL ESTATE TAX ASSESSMENT
APPEAL

PARCEL #123-L-7-122

The Appellant, JP Morgan Chase Bank by and through its counsel, Glen-David Schwarzschild of Cureton Caplan, P.C. hereby files this Petition for Appeal from the Decision of the Clearfield County Board of Assessment Appeals and Revision of Taxes, and avers the following:

1. Appellant is authorized to do business in the Commonwealth of Pennsylvania and is the owner of the property located at 1706 River Road, Lawrence Township, Clearfield County, PA. (the "Premises").
2. The Appellee under this Appeal is the Clearfield County Board of Assessment Appeals and Revision of Taxes, (The "Board"). Clearfield County ("the County") is a 6th class County. The Board is appointed pursuant to general county assessment law, 72 PS §5020101 et. seq. (the "General County Assessment Law") and 72 PS §5342, et. seq., as amended.
3. The Appellant is the owner of the real property, known as the "former Big K-Mart, 1706 River Road, Lawrence Township, Clearfield County, PA. (the "Premises"), identified by the Board as parcel #123.0-L07-000-00122 and is fully authorized and empowered to bring this Appeal.

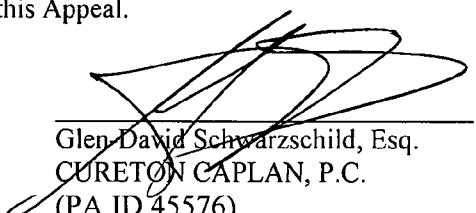
4. The Premises consists of a L Building of 94,841 sq. ft. of gross leaseable area located on 11.83 acres.
5. The Premises (land and improvements) was appraised and assessed by the Board for *ad valorem* real property tax, for the periods commencing on and after January 1, 2006, and for Clearfield County purposes of \$941,452, as to Parcel #123-L-7-122.
6. Parcel #123.0-L07-000-00122 is allocated between land 257,125 and improvements 684,327; totaling 941,452.
7. On or before September 1, 2005, the Appellant property filed with the Board, an Application for Assessment Appeal (the "Application"), requesting a reduction to an assessment of \$273,000 based upon a fair market value of not more than \$1,400,000 based upon the current common level ratio of 19.5%.
8. On October 10, 2005, the Board held a hearing on the application.
9. On the mailing date of November 7, 2005, the Board issued its Decision on the aforesaid application, denying the request of the Appellant to reduce the assessment pursuant to the application (the "Final Notice"). A true copy of the Final Notice with respect to the subject parcel is attached hereto, marked Exhibit "A" and made a part hereof.
10. The Assessment made, and as affirmed by the Board pursuant to the Final Notice is improper, unjust and not in conformity with applicable law because:
 - (a) the collective assessments represent the value of the premises which is greater than its fair market value, taking into account the price which a purchaser willing, but not obligated to buy, would pay an owner, willing but not obligated to sell, taking into consideration all uses for which the premises is adapted and might reasonably be applied;
 - (b) the assessment is not comparable with assessments for other similar real estate in the vicinity of the premises;
 - (c) the assessment represents a value in use of the premises and not its fair market value in exchange and cannot be considered in the methodology evaluation of the premises for *ad valorem* tax purposes;
 - (d) the assessment violates Article 8, §1 of the Pennsylvania Constitution by failing to assess the premises on a uniform basis with properties comparable to the premises;

- (e) the assessment violates the requirement that taxes must be assessed and applied at a uniform rate and paid on a uniform basis on the same class of subjects with substantial equality of the tax burden to all members of the same class;
- (f) the assessment violates the Equal Protection Clause of the XIV Amendment to the United States Constitution because of the disparity of the assessment of the premises with comparable property;
- (g) the assessment in its valuation of the premises is contrary to the applicable law by failing to equalize the fair market value of the premises with other similar properties within the taxing district of which the premises is a part;
- (h) the assessment in its valuation of the premises is arbitrary and unreasonable when compared with comparable and neighboring properties which have been systematically undervalued; and
- (i) the premises is worth, and has a fair market of not more than \$1,400,000, and therefore for 2006 *ad valorem* tax purposes with application of the relevant common level ratio, should be collectively assessed at no more than \$273,000;
- (j) as the current common level ratio for the 2006 tax year is less than 85% of the predetermined ratio, the applicable common level ratio should be applied to the fair market value to determine the applicable assessed value for the 2006 tax year and any subsequent tax year covered by this Appeal.

11. The Appellant is aggrieved by the action of the Board and the assessments of the premises.

WHEREFORE, the Appellant, by and through its Counsel, respectfully requests this Honorable Court, in accordance with the general County Assessment Law and 72 PS §5342, et. seq., to hear this Appeal, and render an appropriate, just and equitable Order and Decree with respect to this Appeal.

Date: 12-5-05


Glen David Schwarzschild, Esq.
CURETON CAPLAN, P.C.
(PA ID 45576)

950B Chester Avenue
Delran, NJ 08075
(856) 824-1001
Attorney for Appellant

VERIFICATION

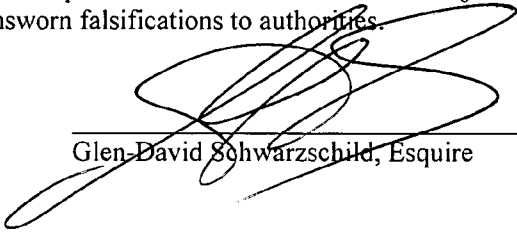
GLEN-DAVID SCHWARZSCHILD, hereby verifies, affirms and swears, that he is a duly authorized attorney for JP Morgan Chase Bank, the "Appellant"), Appellant in the instant action, and that as such counsel, he is authorized to make, and possesses sufficient information and belief to make the within Verification on behalf of the Appellant; and further, that the facts set forth in the foregoing Petition for Appeal form the Decision of the Clearfield County Board of Assessment Appeals are true and correct to the best of his information and belief.

This Verification is made pursuant to Pennsylvania Rule of Civil Procedure No. 1024(c), inasmuch as the otherwise-authorized signatory officers, agents, servants, and/or employees of the Appellant, on whose behalf other Real Estate Assessment Appeal is filed, are outside the jurisdiction of the court and the Verification of none of them can be obtained within the time allowed for filing the Appeal. The information regarding the facts are set forth in the foregoing Real Estate Tax Assessment Appeal have been derived from a thorough review of public records, pleadings, correspondence and other documents in the custody and possession of the undersigned counsel for the Appellant, as well as from prior conversations with agents, servants, and/or employees of the Appellant concerning the subject matter of the Real Estate Tax Assessment Appeal.

This Verification is further made subject to the penalties set forth in 18 Pa.C.S.A. § 4903 and 18 Pa.C.S.A. § 4904, relating to false swearing and unsworn falsifications to authorities.

Dated:

12-5-05


Glen-David Schwarzschild, Esquire

Clearfield County Assessment Office
BOARD OF ASSESSMENT APPEALS

Kmart
Clearfield
991081653



230 EAST MARKET STREET
SUITE 117
Clearfield, Pennsylvania 16830

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

JPMorgan Chase Bank
c/o GMA6 Commerical Mortgage Corp.
700 Pearl Street Suite 2200

Dallas TX 75201

NOTICE OF BOARD ACTION ON APPEALS
FROM 2006 REAL ESTATE ASSESSMENT

Appellant Name	: JPMorgan Chase Bank
Person Appearing	: Mike Costa, John Rush & Michael Petell
Location	: Lawrence Township
Map #	: 123.0-L07-000-00122
Property Identification	: Bldg. & 11.83 A (K-Mart Store)
Original 2006 market valuation	: \$3,765,810.
Original 2006 assessed valuation	: \$ 941,452
Date of appeal hearing	: October 10, 2005

Dear Property Owner:

The Clearfield County Board of Assessment Appeals, having considered your appeal, has made an Order with reference to your 2006 real estate assessment as follows:


Original 2006	Market value affirmed, without change.
Original 2006	Assessed value affirmed, without change

Dated: November 7, 2005

Sincerely,

Clearfield County Board of
Assessment Appeals


Rita D. Bass

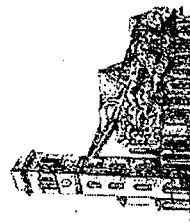

J. Carl Ogden


Jack Green

MAW/jcg

CLEARFIELD COUNTY ASSESSMENT OFFICE
230 EAST MARKET STREET SUITE 117
CLEARFIELD PA 16830

RECEIVED
NOV 14 2005
FIRST AMERICAN TAX
VALUATION DIVISION

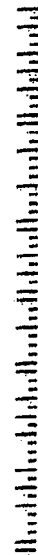


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FIRST AMERICAN
COMMERCIAL REAL ESTATE SERVICES, INC.
MICHAEL J. COSTA
8435 N. STEMMONS FREEWAY
DALLAS TX 75247



Glen-David Schwarzschild, Esquire (PA ID 45576)
CURETON CAPLAN P.C.
950B Chester Avenue
Delran, NJ 08075
(856) 824-1001
Attorneys for Plaintiff

FILED

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(Signature)

William A. Shaw
Prothonotary

JP MORGAN CHASE BANK
(former Big K-Mart)

Appellant

v.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT & REVISION OF TAXES
Appellee.

COURT OF COMMON PLEAS *3 files to App*
CIVIL DIVISION
CLEARFIELD COUNTY

NO. 2005-1901-CO

REAL ESTATE TAX ASSESSMENT
APPEAL

PARCEL #123-L-7-122

ORDER

AND NOW, on this 9th day of Dec, 2005, upon consideration of the foregoing petition, it is hereby **DIRECTED** that:

- (1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) The respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- (3) The petition shall be decided under Pa.R.C.P. No. 206.7;
- (4) Depositions shall be completed within 60 days of this date unless otherwise extended by the Court;
- (5) Either party may request oral argument pursuant to Sch.R.C.P. 2067-7(d); and
- (6) Notice of entry of this order shall be provided to all parties by the petitioner.

BY THE COURT.

(Signature)

CA
CA

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

JP MORGAN CHASE BANK
(former Big K-Mart)
Appellant

No. 05-1901-CD

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014:00/01 Schwarzschild
AUG 28 2006 CR

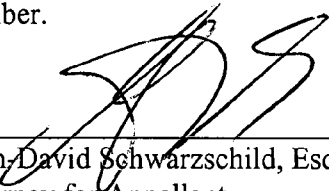
William A. Shaw
Prothonotary/Clerk of Courts


VS.

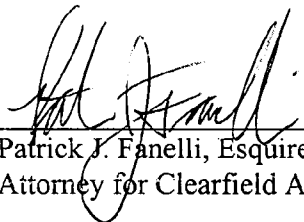
CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS & REVISION
OF TAXES,
Appellee

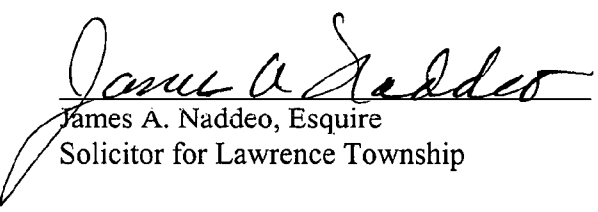
STIPULATION

The undersigned hereby signify their Stipulation and Agreement that the following Order be entered in full and final disposition of the Assessment Appeal filed to the above term and number.


Glen David Schwarzschild, Esquire
Attorney for Appellant


Kim C. Kesner, Esquire
Solicitor of Clearfield County and Attorney
for the Clearfield Board of Assessment
Appeals


Patrick J. Fanelli, Esquire
Attorney for Clearfield Area School District


James A. Naddeo, Esquire
Solicitor for Lawrence Township

ORDER

AND NOW, this 28 day of August, 2006, upon the above Stipulation, this Court makes the following determinations in this Assessment Appeal:

1. The market value as of the date such appeal was filed before the Board of the Assessment Appeals identified by Clearfield County Assessment Map Number 123.0-L07-000-00122 was One Million Four Hundred Thousand and no/100 (\$1,400,000.00) Dollars.

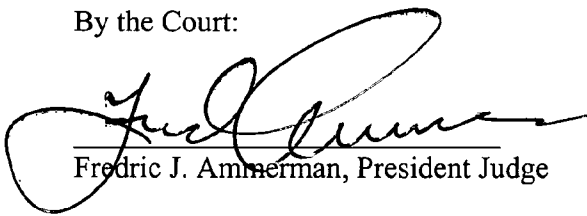
2. The common level ratio which was applicable in the original appeal to the Board was 19.5%.

3. The established predetermined ratio applicable to the appeal was twenty-five (25%) percent. Thus, the Court shall apply the common level ratio to said determined market value(s) because the corresponding common level ratio does vary by more than fifteen (15%) percentum from the established predetermined ratio.

4. The value of the assessment appealed identified by Clearfield County Assessment Map Numbers 123.0-L07-000-00122 produced by this Court's determination of the market value and the common level ratio is Two Hundred Seventy-three Thousand and no/100 (\$273,000.00) Dollars.

5. Any amount found to be due the Appellant as a refund for taxes paid shall be made by the appropriate taxing districts.

By the Court:



Fredric J. Ammerman, President Judge

FILED

AUG 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/28/06

☒ You are responsible for serving all appropriate parties.
The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other
____ Defendant(s) ____ Defendant(s) Attorney
____ Special Instructions: