

**CITY OF NEWARK
DELAWARE
COURT OF ASSESSMENT APPEALS MINUTES**

May 26, 2015

Those present at 6:00 p.m.:

Presiding: Mayor Polly Sierer
District 1, Mark Morehead
District 2, Todd Ruckle
District 3, Rob Gifford
District 4, Margrit Hadden
District 6, A. Stuart Markham

Absent: District 5, Luke Chapman

Staff Members: City Secretary Renee Bensley
City Solicitor Bruce Herron
Finance Director/City Assessor Lou Vitola

1. COURT OF APPEALS

Ms. Sierer called the Court of Assessment Appeals meeting to order and asked Mr. Vitola to present the appeal.

Mr. Vitola presented the appeal of Mr. Alan Schweitzer, the equity owner of 306 North Twin Lakes Boulevard, who was closing on the property on May 28, 2015. Mr. Schweitzer saw the appeal procedures in the Newark Post and appealed the taxable assessment on the property. As City Assessor, Mr. Vitola was required to make a recommendation to Council on the disposition of the appeal. It had been almost 20 years since the last appeal. The recommendation was that Council deny the appeal and refer Mr. Schweitzer to the New Castle County Board of Assessment Review, because the City has in practice relied upon the County assessment for municipal purposes for many years, and the County Board has specific valuation procedures in place, and is much better equipped to consider questions of this type.

Mr. Vitola indicated that Mr. Herron has advised, under the current language of the Charter and the Code, that the Council is required to sit as a court of appeals, even if the City utilizes the County assessment. Going forward, staff will consider recommending amendments to the Code and possibly the Charter, which would provide for an appeal to the Council sitting as court of appeals only in the event that Council does not adopt the County assessment. Since Council adopts the County assessment, it makes sense for the County to consider any appeals, and then adopt what the County adopts. In the event that Council does not adopt the County assessment, then the court of appeals process would still take place as it was now written. Mr. Schweitzer was aware of the recommendation, and was present in case he had comments to share.

Ms. Sierer asked if Council proceeded with the process, what the timing of the anticipated path forward was. Mr. Vitola noted that staff has given the documents to Mr. Schweitzer that would allow him to file the appeal with the County. The County process allows for appeals every quarter, as opposed to every year with the City, so Mr. Schweitzer could undertake that process and the City would follow the County decision. Any assessment change would be reflected in the next quarterly rolls for the City.

Mr. Morehead asked if the City adopted the County assessment value by Code or by tradition. Mr. Vitola deferred to Mr. Herron who stated that it has been by tradition, but the Charter and the Code talk about an annual adoption of the County assessment and receipt by Council on a quarterly basis of County assessments, which has occurred on the consent agenda. Mr. Morehead asked for clarification on the documents received by Council, which Mr. Vitola stated that quarterly assessment rolls were submitted three

times per year and the annual tax rolls were submitted once per year, typically in July or August.

Mr. Markham noted that in his nine years on Council, there have been no appeals and asked Mr. Vitola if he has looked at the surrounding properties to see if this is in line with them based on what we have in our books, which Mr. Vitola had not. Mr. Markham wanted to make sure there were no glitches in the City's system causing an anomaly where the City has the problem, and not the County.

Ms. Hadden asked if Council did act to do something with this, would there be unintended consequences for the other land owners. Mr. Vitola thought there would be and did not know what precedent it would set. The City very uniformly for decades adopted the County assessment for efficiency reasons, much like many other cities in New Castle County do. He felt if the City made one exception and one assessment change for one property, it would "open up a can of worms" for administration.

Ms. Hadden asked what the impact would be for the sale of the property for Mr. Schweizer if Council did not act and recommended that the appeal be taken to the County. Mr. Vitola felt there would be no impact on Mr. Schweizer other than a tax bill that is higher than what Mr. Schweizer believes should be his tax bill. Mr. Schweizer did have additional recourse and would be able to go to the County to appeal the assessment. Ms. Hadden noted that she understood the frustration with the development.

Mr. Ruckle asked Mr. Schweizer if he felt that the tax bill of a little over \$2,000 was too high, which Mr. Schweizer confirmed. Mr. Ruckle asked if the assessment was based off 1983 stats throughout the entire County, which Mr. Vitola confirmed. Mr. Ruckle felt the City was not in the position to change the County assessment. Mr. Vitola stated that, by Code, he was the assessor by title, and the City lived by the appeal process written into the Code. He felt it was not appropriate to make any changes to the County assessment on a one-off basis. Mr. Ruckle asked what the actual assessed value was, which Mr. Vitola stated \$63,500. Mr. Vitola noted that the market value of the property has fallen, but it is higher than the assessed value. Typically, the 1983 assessed values in New Castle County are between 28% and 33% of market values, so that would put the market value of this property at \$189,000 or so, and that exceeds what Mr. Schweizer understands to be the market value of the property. However, it is nothing so far outside of the norm that the City saw swings in value of that magnitude.

Mr. Morehead asked if the low value because of something with this one property, or if it is because all of the properties in that development are similar. Mr. Vitola thought all property values were similar in that neighborhood. Mr. Markham noted that properties in the 300 block ranged between \$63,000 and \$79,900 in assessed value. Mr. Vitola stated that the appellant's property was assessed at the lower end of that range. Mr. Markham noted that outdated assessments were an ongoing issue.

Mr. Gifford felt this location was a special situation as it was not being actively improved at this time, there were a lot of empty and unfinished units, and that it was different from other areas of the City where there may be thoughts that the value or the assessment was inflated. He noted that if the City changed the assessment that did not mean the County had to accept it for the taxes that they administer, and that the majority of the taxes were what the County collected for the school district with the amount of City taxes collected being much lower. Mr. Vitola confirmed that if Council adjusted the assessment, all it would affect is what the City collected and that was only \$448 at prevailing tax rates.

Mr. Gifford noted that this area of the City is a problem, which needed a separate discussion to consider what to do with that to ensure that the area did not stay that way for too long. However, he thought the County process was probably the best process, as it would affect the largest part of the tax bill.

Mr. Ruckle noted that the County stayed at 1983 assessments in part to protect

from the ups and downs in the market and provide consistency. He felt it was best for Mr. Schweizer to go to the County and that there really was not anything Council could do.

Mr. Gifford remarked that this particular area had not weathered as well as other sections of the City and that the LLC is struggling with being on the verge of bankruptcy. He felt that was the unusual part that may affect the assessment, and hoped the County had some relief for the owners and the buyers for those units including Mr. Schweizer.

Ms. Sierer asked Mr. Schweizer to approach the podium to speak on his appeal. Mr. Schweizer noted the ongoing problems in the neighborhood and multiple issues with the developer regarding back taxes and refusal to respond to questions for documents. The seller had not lived there for several years and was not able to pay the taxes or condo fees on the property. He felt the process at the County to appeal the assessment was onerous and impossible to appeal. He noted that on the inside, the unit was very nice, but market value was what he was willing to pay. He appreciated the City hearing the appeal, but was not aware that a revaluation by the City would not go to the County.

Ms. Sierer thanked Mr. Schweizer and brought the discussion back to the table.

Mr. Gifford asked when Mr. Schweizer could come back to Council for further discussion if the County offered no relief. Mr. Vitola noted that it was an annual process for the City and that if Council were to consider a change in the assessed value, it would impact City taxes only. Mr. Gifford asked Ms. Bensley if there were any other options for calling a meeting of the Court of Assessment Appeals. Ms. Bensley stated that according to the Charter, "each year at least 30 days before the beginning of the tax year (July 1) the Council shall hold a court of appeals on such date and at such time as is warranted by the number and nature of tax assessment appeals which may have been filed."

Ms. Hadden asked if it would it be bad form for Council to assist Mr. Schweizer in a relatively small way, or would Council be creating a problem if it gave him a letter that said the City recognized there are problems with this area and could the County expedite his request. Mr. Vitola did not see any harm in sending a letter to the Assessment Division at the County advising them that the City has an annual assessment appeal process, and there is a particular property owner in a particular area that has an appeal.

Discussion ensued as to what could be done to ensure improvements in the neighborhood. Mr. Morehead supported sending a letter encouraging the County to take the appeal forward, but felt the situation in the neighborhood fell to the City to fix in the long term.

Ms. Hadden agreed with Mr. Morehead, but felt there were two issues: getting Mr. Schweizer through the process and addressing the neighborhood problems.

Mr. Morehead felt the applicant was speculating on a \$300,000 property with a \$100,000 offer and felt it did bad things for the neighborhood as the comp would bring the neighborhood down through the years if it was not noted as a unique comp. Mr. Ruckle noted that realtors are not allowed to use that comp unless there are a significant amount in the same range and risk an ethics charge if they used it. Unless the market dictates that, which meant a majority, they were not allowed to use that comp.

Discussion continued regarding the specific problems with the development and the tools the City had to address them, including the good standing ordinance.

Mr. Markham asked if Council drafted a letter, and passed it in support of reassessment, would that set a precedent in the future. Mr. Herron noted it would depend on exactly what the letter said, but if it simply expressed a position to the County Board, he did not believe it would set a precedent. In response to Ms. Sierer, Mr. Herron noted he would help staff to draft the letter. Discussion ensued regarding the content of the letter and Council requested the letter be on a subsequent Council agenda for approval. Mr. Ruckle noted that residents of Fountainview were in a similar situation and may also seek

relief. Ms. Hadden noted that those residents could also apply to the County for reassessment of their properties.

Ms. Sierer stated she would entertain a motion regarding the appeal.

MOTION BY MR. MOREHEAD, SECONDED BY MR. RUCKLE: THAT COUNCIL DENY MR. SCHWEIZER'S APPEAL FOR TAX PARCEL NUMBER 18-054.00-022 C0306 ON THE BASIS THAT NEW CASTLE COUNTY SHOULD BE THE AUTHORITY ON PROPERTY TAX ASSESSMENT, AS THE CITY OF NEWARK ADOPTS THE NEW CASTLE COUNTY ASSESSMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer

Nay: 0.

Absent: Chapman

2. Meeting adjourned at 6:28 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary