NOT FOR PUBLICATION WITHOUT APPROVAL OF
THE TAX COURT COMMITTEE ON OPINIONS

TAX COURT OF NEW JERSEY

Mark Cimino
Judge

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September 29, 2016

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RE: GALMAN v. LONGPORT
DOCKET NO: 012497-2014 & 009603-2015

Counsel:

This letter constitutes the court's decision in the above-referenced matter challenging the 2014 and 2015 tax year assessments on the taxpayer's property.

For the reasons set forth below, the court finds the assessment is $4,500,000 for both the 2014 and 2015 tax years.

Arnold and Sandra Galman are the owners of the property located in the Borough of Longport identified by the assessor as Block 39, Lot 1 and with the street address of 113 South 29th Avenue, Longport, New Jersey 08402. The property is rectangular in size, measuring 90 x 109 feet. The front entrance to the property fronts 29th Avenue in Longport. One side is adjacent to the property next door.

The other side of the property faces the ocean and the rear portion of the property faces the beach and provides an up-beach view of the coast including the Atlantic City skyline. The bulkhead/seawall wraps around two sides of the property, that being the portion which faces the ocean and that which faces up-beach. In addition, not all the property is buildable with a significant portion of the property located on the seaward side of the bulkhead for which building is not permitted and for which, from the testimony, the public has access. There was some unclear testimony on the record as to whether the Galmans' or a predecessor in title had donated the portion of the lot seaward of the bulkhead to the Borough. However, that is not relevant to the consideration of this matter.

Constructed on the property is a 3,800 square foot dwelling consisting of nine total rooms of which four are bedrooms and four and one-quarter baths. The view from the property is beachfront and the design of the building is considered contemporary with an average quality of construction in good condition. The property also has off-street parking as well as an in-ground pool which abuts the bulkhead.

The Assessor assessed the property for both tax years as follows:

Land:	$3,906,000
Improvement:	$ 594,000
Total:	$4,500,000

In 2014, the Galmans' appealed the assessment to the Atlantic County Tax Board. The 2014 assessment was dismissed without prejudice with the hearing waived allowing this matter to proceed to the Tax Court. An appeal of the 2014 assessment was timely filed in the Tax Court on August 8, 2014.

Thereafter, the Galmans' appealed their 2015 assessment to the Atlantic County Tax Board. The original assessment for 2015 was the same as it was for 2014. After a hearing before the County Tax Board, the Board kept the land assessment at $3,906,000, but increased the improvement assessment from $594,000 to $744,000. This resulted in a revised total assessment of $4,650,000. Once again, a timely appeal was made to the Tax Court.

The parties engaged in settlement discussions, but were unable to resolve the matter resulting in a trial held on March 2, 2016.

The Galmans' retained Craig Silverman, a state certified real estate appraiser whose qualifications were stipulated by the parties. The court accepts Mr. Silverman as an expert in the field of real estate appraisals. As provided by Law, the assessed value of the property is the value of the property as it existed on the October 1st prior to the assessment year. N.J.S.A. 54:4-23. Thus, the 2014 assessment would be based upon the value of the property as of October 1, 2013. As of October 1, 2013, Mr. Silverman determined that the property was worth $2.9 million. Likewise for the assessment year 2015, Mr. Silverman found that the property was worth $4 million as of October 1, 2014. It should be noted that over the one year period, there were not any improvements or material changes to the property. In support of the assessments, Mr. Silverman offered three comparable properties for the 2014 assessment and five comparable properties for the 2015 assessment. Each of these properties will be discussed in greater detail later in this decision.

After the testimony of Mr. Silverman, the case proceeded directly to the testimony of the assessor for the municipality, Jeffrey Hesley. The assessor presented a comparable sales analysis consisting of four beachfront properties to refute the taxpayers' appraisals.

Both the appraiser and assessor stipulated that the comparable sales approach is the best method of valuation.

It is important to note there was some discussion that Superstorm Sandy which occurred October 29, 2012, had some impact upon the values of the properties in question. However, the assessor relied exclusively upon properties prior to Superstorm Sandy and the appraiser relied upon properties both before and after Superstorm Sandy. Moreover, neither the appraiser nor the assessor, credited any downward adjustment in price as a result of Superstorm Sandy. Thus, the court is not provided with any competent evidence to make an adjustment as to Superstorm Sandy and does not do so.

Appraiser’s 2014 Comparable Sales

1. 105 South Manor Avenue

This property is located 0.063 miles from the subject property. The property was sold on March 20, 2011 for $3.32 million. The appraiser adjusted the value for the room count and the gross living area which is slightly smaller than the subject property. The appraiser also adjusted the value to reflect a two car garage and the lack of an in-ground pool, resulting in a net adjustment of an additional $58,400.00 for a total adjusted sale price of $3,378,400.

The assessor was pointedly asked why the property was not usable for the assessment process or for the appraisal. The assessor opined that the sale was an “outlier” or a one-time anomaly that should not be used to set the broad scope of beachfront property in Longport. Thus, the question arises as to whether this property in and of itself would be a sufficient basis to adjust the assessment as it now stands. This issue is discussed later in this opinion.

2. 118 South 20th Avenue

This property is located 0.49 miles from the subject property. This property is beachfront as well. The appraiser explained that the property was purchased for tear-down purposes. The large house located upon the property was torn down so the property may have the highest and best use as three separate building lots. In fact, the appraiser’s information is based upon the fact that the owner of the subject property (113 South 29th Avenue) was also the purchaser of this comparable.

Three problems arise as to the property being used for three separate lots. First, the appraiser indicated that on the tax map the property was already divided into three separate lots. Notably, the appraiser could not address any issue regarding the doctrine of merger that was alleged to have occurred as a result of the property being used as the site of the one large house until it was torn down. Second, it was undisputed that the beachfront frontage for the property was 135 feet resulting in a minimum of 45 feet frontage for each lot. The appraiser equivocally testified that the minimum frontage was 45 feet. However, when the assessor

for the municipality testified, he unequivocally and confidently indicated the minimum frontage was 50 feet and that anything less would require a variance. Moreover, he indicated that a sub-division application was indeed made for the property to sub-divide the parcel into two building lots and that one of the two building lots was in the process of having a structure constructed thereon. The more credible testimony is that the property could be utilized for two building lots instead of three building lots. Nevertheless, the appraiser, since he felt that the real value of the property was that of a tear-down, accepted the purchase price of $8.6 million and merely divided by three to arrive at a value of $2.8 million per lot. Lastly, he did not add back in the cost or value of any structure that would be upon the property.

The court finds that the more credible evidence is that this property could have been divided into two lots. Each of the resulting lots would be approximately 68 feet of beachfront and an 125 foot property depth. Therefore, the court finds the value of each lot would be at least $4.3 million.[1]

The court accepts the testimony of the appraiser that the property was purchased with the intent to tear down the existing building. The appraiser used a value of $200 a square foot to adjust for building size. Applying this to 3,800 square feet for the subject property would result in a building value of $720,000. When adding the value of the improvements ($720,000) to the value of one of the lots ($4.3 million), the total value would be over $5 million, therefore, being unhelpful to the taxpayer as this exceeds the current assessment for the subject.

For the reasons set forth above, the court does not consider 118 South 20th Avenue an acceptable comparable sale.

[1] The 4.3 million is based upon the assumption that the larger property was evenly divided into two 68 foot wide lots. This is the proper approach since the subject property has 90 feet of beach frontage which is more than the comparable property when divided. The $4.3 million does not take into account an adjustment for a nonexistent up-beach view. Thus, if anything the $4.3 million valuation could be viewed as being on the low side.

3. 112 South 22nd Avenue

This property is 0.38 miles from the subject property. This property is not beachfront but located second from the beach. This property sold for $2,500,000, much less than any comparable provided by the appraiser for 2014. The off beach location of the house seems to be the reason why the house sold for much less than a house located on the beach.

The appraiser discussed the idea of "functional utility" during his testimony. The appraiser used an example of a basement in which he indicated that there really is not much of a difference between a finished and unfinished basement because a finished basement is not truly completely finished because there is always some area for furnaces and such. Moreover, the appraiser indicated that there really is not much of a difference between a 1,200 square foot basement and a 1,500 square foot basement since the functional utility is that of a recreation room or something of that nature rather than the exact square footage of the room. Likewise, the appraiser testified that for beachfront property, beachfront is the utility, not the size of the beachfront. However, the appraiser used non-beachfront property and then created an adjustment for same. For this particular comparable, the appraiser adjusted the value by 10% to account for the property being located second from the beach. However, the appraiser adjusted the value for a non-beach property by 20% for the 2015 comparables. The appraiser was unable to clearly explain why he used 10%, 20% or any other number for that matter. For this reason, the court discounts the methodology of using non-beachfront property to describe beachfront property in this instance.

The assessor testified that comparing beachfront property to other properties whether it be one from the beach or bayfront is like comparing apples to peanuts. Beachfront property is a market segment in and of itself. The appraiser further testified that beachfront property is desirable and people seek it out. He equivocated that sometimes people will take other properties if beachfront is not available. However, as set forth later, this court determines based upon the testimony presented, it is not a sound methodology here to compare non-beachfront property to beachfront property. There is only so much beachfront property available along New Jersey's coastline. The problem as clearly

indicated by the assessor is when do we stop and how do we make the adjustment for second from the beach, third from the beach, tenth from the beach and so on. At some point, attempting to compare a non-beachfront property to a beachfront property leads to inaccuracy and just sheer guessing as to the value of the property.

Thus, the court does not consider 112 South 22nd Avenue an acceptable comparable sale.

Appraiser's 2015 Comparable Sales

1. 108 South 29th Street

This property is 0.06 miles from the subject property. This property is not beachfront but located one in from the beach. The appraiser provided a 20% discount without any basis for doing so. Once again, the issue this court has with the discount given by the appraiser is his inability to articulate why a 20% discount is appropriate versus a 10% discount as given to comparable sale number 3 in 2014.

For the reasons set forth above, the court does not consider 108 South 29th Street an acceptable comparable sale.

2. 1301 Beach Terrace

This property is 0.62 miles from the subject property. This property is beachfront. However, the appraiser indicated that the property was not publically listed, but tried to ascertain that the transaction was an arms-length transaction. The appraiser was unaware of the total number or rooms, bedrooms, and bathrooms as he did not have the opportunity to inspect the property. The appraiser did note the condition of the property as good.

The assessor indicated that the property had suffered substantial first floor storm damage. In addition, the property was put up as part of an auction sale. A sale at an auction is a distress sale not between an arm's length buyer and seller, thus, is of questionable value of comparable worth. N.J.A.C. 18:12-1.1. To determine the fair market value of a property, the price a willing buyer would pay a willing seller must be taken into account. City of New Brunswick v. State Div. of Tax Appeals, 39 N.J. 537, 543, 189 A.2d 702 (1963).

For the reasons set forth above, the court does not consider 1301 Beach Terrace an acceptable comparable sale.

3. 114 South Quincy Avenue

This property is 1.11 miles from the subject property. This property is beachfront. However, this property is located in a completely different shore community, Margate City. The appraiser testified that although the properties were located in different shore communities, the two properties were only a little over one mile apart. While this is true, issues do still arise as to valuing different properties located in different shore communities.

The assessor in his testimony addressed the atmosphere of different shore communities and how this varies from place-to-place. The assessor convincingly drove this point home by saying that you could not reliably compare communities to each other such as Avalon to Wildwood, or Stone Harbor to Ocean City in that each is different in character.

The appraiser did seem to concede that the atmosphere at the Margate beach was different from that at the Longport beach and even within Longport. It should be noted that the subject property in this case is located on the southern end of Longport, and Margate is north of Longport. Even though the appraiser attempted to utilize a property in the southern part of Margate, it still was located a sufficient distance to question the reliability of its usage.[2] The appraiser attempted to argue that this was a wash by discussing the pros and cons of where the two properties were located. For instance, even though it is quieter down where the subject property is located as compared to the Margate property, the subject property is located further away from the convenience of shopping and restaurants. The thought is that these two factors (the quietness versus convenience of shopping areas) would balance each other out. In any event, the court cannot find there is proof that these two factors do so.

[2] The court does not address the situation in where the subject property is closer (i.e., only one block) to a potential comparable sale located in a different municipality.

For the reasons set forth above, the court does not consider 114 South Quincy Avenue an acceptable comparable sale.

4. 1301 Atlantic Avenue

This property is 0.86 miles from the subject property. This property is not beachfront, but bayfront. The appraiser made no adjustment based on the property being bayfront versus beachfront.

As mentioned previously, the assessor testified that comparing beachfront property to other properties is not the same. In regards to bayfront versus beachfront property, the assessor used the example that one cannot park his or her boat on the beach and one cannot sit under an umbrella at the bay. Bayfront and beachfront are two completely different market segments. Comparing bayfront property to beachfront property may be even more troublesome as the bayfront property is all the way across the barrier island. While at some locations the barrier island may be only a block wide, at other locations it may be a mile or two wide. The point is that bayfront and beachfront are vastly different types of property utilized for vastly different recreational purposes. Furthermore, bayfront and beachfront properties target a different market segment.

For the reasons set forth above, the court does not consider 1301 Atlantic Avenue an acceptable comparable sale.

5. 108 South 24th Avenue

This property is 0.26 miles from the subject property. This property is not beachfront, but is one house in from the beach, similar to comparable sale number 3 in 2014.

For reasons set forth for comparable sale number 3 in 2014, and comparable sale number 1 in 2015, the court does not consider 108 South 24th Avenue an acceptable comparable sale.

<u>Assessor’s Comparables</u>

The assessor presented four comparable beachfront properties which ranged in value from 5 million to 6.7 million dollars. The appraiser took issue with these comparable properties due to the fact that all sales pre-dated the assessment year in question by a number of years. The assessor convincingly noted that

considering the scarce and limited supply of beachfront property, the assessor really did not have much of a choice but to attempt to utilize these properties. However, as set forth later, when the appraiser's comparables are eliminated except for comparable number 1, the assessor's comparables both pre-date and post-date the appraiser's comparables.

Conclusions of Law

It is a well-established principle that, "original assessments and judgements of county boards of taxation are entitled to a presumption of validity." MSGW Real Estate Fund, LLC v. Borough of Mountain Lakes, 18 N.J. Tax 364, 373 (Tax 1998). The Supreme Court states:

> The presumption attaches to the quantum of the tax assessment. Based on this presumption the appealing taxpayer has the burden of proving the assessment is erroneous. The presumption in favor of the taxing authority can be rebutted only by cogent evidence, a proposition that has long been settled. The strength of the presumption is exemplified by the nature of the evidence that is required to overcome it. That evidence must be "definite, positive and certain in quality and quantity to overcome the presumption."
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> [Id. (quoting Pantasote Co. v. City of Passaic, 100 N.J. 408, 413 (1985) (citations omitted)).]

Pantasote further states, "that in tax matters it is to be presumed that governmental authority has been exercised correctly and in accordance with law." Id. at 413 (citing, Powder Mill, I Assocs. v. Township of Hamilton, 3 N.J. Tax 439 (Tax 1981)). It has further been determined that the presumption be sustained even in the case where the "municipality utilized a flawed valuation methodology, so long as the quantum of the assessment is not so far removed from the true value of the property or the method of assessment itself is so patently defective as to justify removal of the presumption of validity." Transcon. Gas Pipe Line Corp. v Township of Bernards, 111 N.J. 507, 517 (1988) (quoting Pantasote, supra, 100 N.J. at 415).

The taxpayer is responsible for producing sufficient evidence that is, "definite, positive and certain in quality and quantity to overcome the presumption," Aetna Life Ins. Co. v. City of Newark, 10 N.J. 99, 105 (1952)(citing Central R.R. Co. of N.J v. State Tax Dept., 112 N.J.L. 5, 8 (E. & A. 1933)). At the close of taxpayer's evidence, the municipality may move to dismiss pursuant to R. 4:37-2(b). If the municipality does not move to dismiss, the court determines whether the presumption has been overcome at the end of the trial. MSGW Real Estate Fund, LLC, supra, 18 N.J. Tax at 377. To determine if the presumption has been overcome, the court should view the evidence at the close of taxpayer's case as if a motion for judgment at trial pursuant to R. 4:40-1 was properly made. Id. Namely, the court must accept as true all evidence which supports the position of the party opposing the motion and must accord that party the benefit of all legitimate inferences. Zive v. Stanley Roberts, Inc., 182 N.J. 436, 441 (2005). The court may not weigh credibility. Rena, Inc. v Brien, 310 N.J. Super. 304, 311-312 (App. Div. 1998).

Even if the presumption is overcome, the taxpayer must still establish by the preponderance of credible evidence, after the totality of the evidence of both the municipality and taxpayer is considered, that a different assessment value must be established. MSGW Real Estate Fund, supra, 18 N.J. Tax at 379; Borough of Rumson v. Peckham, 7 N.J. Tax 539, 551 (Tax 1985).

The evidence presented by the appraiser is thin. As stated below in greater detail, except for one property, all the properties presented are simply not comparable. The court finds this one property sufficient to overcome the presumption which is "considered using the artificial standard, or 'rose colored glasses', required under R. 4:37-2(b) or R. 4:40-1." MSGW Real Estate Fund, supra, 18 N.J. Tax at 379. However, "[e]vidence which is sufficient for a party to overcome the presumption . . . is not necessarily sufficient to carry the party's burden of proof when all evidence is subjected to critical analysis and weighing by the court". Ibid.

As noted, there is no dispute between the taxpayer's appraiser and the municipal assessor that the comparable sales approach is the best method of valuation. Therefore, the taxpayer has the burden of producing sufficient comparable sales to establish a revised assessment. The appraiser's opinion cannot be based on

mere speculation but needs to be backed-up by sales which are truly comparable to the subject property at issue.

There are two issues for the court to consider in reviewing the assessment of this property. First, should non-beachfront properties count as comparable sales when the subject property is beachfront. Second, is only one comparable property enough for the appraiser to establish value in this case.

The State of New Jersey has 130 miles of coastline along the Atlantic Ocean. State of New Jersey, New Jersey Travel Guide (2016). Noting this fact, the question for the court to examine is whether non-beachfront homes should be accepted as comparable sales when the subject property is a beachfront home. The court finds beachfront properties are unique pieces of land. Beachfront homes consist of various luxuries which are not available to non-beachfront homes. Such luxuries include the view of the ocean and direct access to the beach and the water. City of Ocean City v. Maffucci, 326 N.J. Super. 1, 7 (App. Div. 1999). Other jurisdictions have also taken a similar philosophy to the benefits of owning a waterfront home. In New Jersey and in other jurisdictions, the issue has arisen in the context of valuation for eminent domain purposes.

In Maffucci, owners of beachfront condominiums in Ocean City, New Jersey sought compensation for loss of value resulting from the loss of the view of the ocean and access to the beach resulting from the construction of dunes. The Appellate Division ruled that loss of view, loss of access and loss of privacy are elements which have value. Id. at 18. Every other jurisdiction which has considered the issue has found likewise. Id. at 20, citing, Pierpont Inn, Inc. v. State, 449 P.2d 737, 745-46 (Cal. 1969), overruled on other grounds, L.A. Cnty Metro. Transp. Auth. v. Cont'l Dev. Corp., 941 P.2d 809 (Cal. 1997).

In Pierpont Inn, the California Supreme Court considered in regards to an eminent domain action the loss of view and access to the beach as factors to consider for just compensation. The court stated, "Items such as view, access to beach property, freedom from noise, etc. are unquestionably matters which a willing buyer in the open market would consider in determining the price he would pay for any given piece of real property." Id. at 746.

In Keinz v. State, 2 A.D.2d 415, 417, 156 N.Y.S.2d 505, 507-08 (App. Div. 1956), the Appellate Division of the New York Supreme Court took into account the "pleasant view of the bay" as well as access to the bay when the State obtained a one foot strip which abutted the bay.

In La Plata Elec. Ass'n. v. Cummins, 728 P.2d 696, 696-97 (Colo. 1986), the Colorado Supreme Court determined a taxpayer had the right to present evidence, including "aesthetic damage and loss of view" to determine the damage that would occur in an eminent domain action.

Moreover, view is an important aspect of any appraisal. So much so that the Uniform Residential Appraisal Report has a separate adjustment line for view. See, Freddie Mac and Fannie Mae, Uniform Residential Appraisal Report, Freddie Mac Form 70, Fannie Mae Form 1004 (2005).

The appraiser did present a number of comparable sales for both the 2014 and 2015 tax year and attempted to assign a dollar amount to account for the beachfront aspect of the subject property. The adjustments ranged from $250,000 to $655,000. One time a flat ten percent adjustment was used, and two other times a flat twenty percent adjustment was used. There was not any cogent or credible explanation for such discrepancies in value or percentage of value. This court finds the appraiser did not convincingly establish that his adjustments of non-beachfront property to reflect beachfront prices was sound. There is not any evidence that he conducted a paired sale or multiple regression analysis which is typically used to establish adjustments for location and physical characteristics. Diane M. Ange et al., Property Value Assessment 181 (Garth E. Thimgan et al., 3rd ed. 2010), Appraisal Institute, Appraisal of Real Estate 398-99 (15th ed. 2015).

The appraiser utilized three properties which were second to the beach. Moreover, such adjustments for location or physical characteristics become problematic and can produce unreliable results when only a narrow sampling of sufficiently similar properties is available. Id. at 400. This is especially true for properties that do not sell frequently on the market. Id.

The appraiser's approach to comparing beachfront with off beach properties is arbitrary. Simply picking ten or twenty

percent is guessing. For the appraiser to use off beach properties, the appraiser would have to first identify a reasonable sale for such off beach property. Then, a reasonable sale has to be identified for an otherwise similar beachfront property. The difference between the two would establish an adjustment for the difference between beachfront and off beach. This would have to be repeated for multiple pairs of property to reduce error. This is the paired sales and multiple regression analyses. Property Value Assessment, supra, at 181. However, such an exercise would be largely academic since identifying applicable sales of beachfront property needed to set the adjustment would satisfy the inquiry of determining the value of beachfront property. Further complicating the inquiry is that not only are beachfront sales limited, but the value of beachfront property varies widely from municipality to municipality and sometimes varies widely within the same municipality.

The appraiser also compared the subject property to a bayfront property without considering any adjustment. As convincingly explained by the town assessor, beachfront is vastly different from bayfront for you cannot dock your boat on the beach and you cannot sit under an umbrella on the bay.

Based upon the foregoing findings, the only property which the court finds probative of the value in question here is comparable sale number 1 from the 2014 appraisal. This property is also in many ways similar to the subject property. Therefore, the question becomes whether one comparable is enough to overcome the assessor's judgment as to what the subject property is worth or whether the property is an outlier or anomaly upon which there is not enough evidence to demonstrate a comparable value.

The court is quite uncomfortable relying upon one comparable sale to establish the value of the subject property. Both the subject property and the comparable sale number 1 from the 2014 appraisal are not the only beachfront properties located in that particular neighborhood of Longport. While the use of one comparable is possible, such an approach must be approached cautiously. Little Egg Harbor Twp. V. Bonsangue, 316 N.J. Super. 271, 283 (App. Div. 1998).

Further undercutting use of this sole property is the assessor's presentation of four nearby beachfront property sales with substantially higher sales prices. Two of these sales predate

the appraiser’s remaining comparable and two are subsequent. However, all sales presented by the assessor predate the valuation date of October 1, 2013. The properties range in sales price from $5,000,000 to $6,700,000 which is substantially more than the appraiser’s comparable sale of $3,320,000. Both parties had trouble coming up with comparable sales which were close in time to the valuation dates of October 1, 2013 or October 1, 2014. As explained by the assessor, this is not surprising considering the limited supply and thus limited sales of beachfront property.

This court finds that the four comparables presented by the assessor more closely reflect the valuation of beachfront property in the subject’s neighborhood of Longport. The assessor’s determination that comparable number 1 is an outlier is not only credible, but is supported by credible evidence of the four beachfront comparables presented as well. This is unlike the appraiser’s adjustment for non-beachfront property which was wholly unsupported.

As previously discussed, it is the taxpayer that has the burden of proof. The taxpayer has not satisfied its burden of establishing by the preponderance of all credible evidence that the assessment must be adjusted from that determined by the assessor. It is the decision of this court that the taxpayer has not satisfied its burden by only presenting one comparable property. The sole remaining property simply does not provide a reliable basis to determine value. Moreover, considering the comparable sales presented by the assessor, the court finds the assessed value of $4,500,000 as determined by the assessor to be more than reasonable and credible.

The final issue raised in this matter has to deal with the decision of the County Tax Board with regards to the 2015 valuation. It is this court’s understanding that upon the taxpayer’s filing of the appeal for 2015, the Borough cross-appealed for 2015. At the County Board hearing, the Board increased the value of the improvements by $150,000. It is undisputed that there were not any additional improvements to the property during this one year period.

Property assessments consist of both a land value and improvement value. <u>Brown v. Borough of Glen Rock,</u> 19 <u>N.J. Tax</u> 366 (App. Div. 2001). It has been determined while these are two different values, this does not create two separate contestable

assessments. Id., citing, In re Appeals of Kents 2124 Atlantic Avenue, Inc. 34 N.J. 21, 33, 34, 166 A.2d 763 (1961); Nat'l Westminster Bank v. City of Brigantine, 11 N.J. Tax 502 (Tax 1991). While the court notes that the increased value of the improvement is curious, to properly address the assessment, this court must look at the land value and improvement value as one. Thus, the total assessment of the property was increased from $4,500,000 in 2014 to $4,650,000 in 2015.

When the ratio of assessment to true value exceeds the upper limit or is below the lower limit of the common level range, the tax board is to revise the assessed value. N.J.S.A. 54:3-22(c). The common level range is the "range which is plus or minus 15% of the average ratio for that district". N.J.S.A. 54:1-35a(b).

Here, the average ratio for Longport in 2015 is 95.49. The lower limit would be 81.17.[3] The upper limit would be 109.81.[4] Here, the Board did not set forth a true value, just a revised assessed value of $4,650,000. However, the true value of the property can be developed mathematically from the assessed value determined by the Tax Board. Township of North Brunswick Tp. v. Gochal, 27 N.J. Tax 31, 35 (Tax 2012). Based upon the average ratio of 95.49, the real value would be $4,869,620 (=$4,650,000/.9549). See, e.g., Ibid. The ratio of the assessed value to the true value would thus be 92.41 (=$4,500,000/$4,869,620). Ibid. This is certainly not below the lower limit of 81.17. As a result, the change in assessment of the Tax Board is void. Ibid. See also Appel v. Englewood, 15 N.J. Tax 537, 546 (Tax 1996).

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[3] The lower limit is the average ratio less 15 percent of the ratio. In this particular case, 95.49 x 15% = 14.32, 95.49-14.32=81.17

[4] The upper limit is the average ratio plus 15 percent of the ratio. In this particular case, 95.49 x 15%= 14.32, 95.49+14.32=109.81.

In conclusion, judgment will be entered as follows:

2014 Tax Year

Land:	$3,906,000
Improvement:	$ 594,000
Total:	$4,500,000

2015 Tax Year

Land:	$3,906,000
Improvement:	$ 594,000
Total:	$4,500,000

Sincerely,

/s/Mark Cimino, J.T.C.