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**RUPERT DUDLY CODDINGTON and EDNA MAY CODDINGTON**

**v.**

**CORPORATION OF THE DISTRICT OF WEST VANCOUVER**

Supreme Court of British Columbia (No. X539/62)

Before: MR. JUSTICE HARRY J. SULLIVAN

Vancouver, September 17, 1962

H.R. Bowering for the Appellants  
H.J. Sedgwick for the Respondents

## **Case Stated by Assessment Appeal Board**

1. Involved in this appeal are the 1962 assessments of both the land and improvements situate on Lots 6 and 7, Block 3, D.L. 775, W. 100 acres, in the Municipality of West Vancouver, in the Province of British Columbia. The street addresses of these properties are 1941 and 1949 Bellevue Avenue, West Vancouver, British Columbia. The 1961 assessment for 1941 Bellevue Avenue was \$1,700 for the land and \$2,800 for the improvements. The 1961 assessment for 1949 Bellevue Avenue was \$1,700 for the land and \$2,900 for the improvements. The 1962 assessment for 1941 Bellevue Avenue is \$7,000 for the land and \$2,600 for the improvements, but this latter figure was reduced to \$1,700 by the Court of Revision. The 1962 assessment for 1949 Bellevue is \$7,000 for the land and \$2,800 for the improvements, but this latter figure was reduced to \$1,800 by the Court of Revision.
2. The property at 1941 Bellevue Avenue was purchased by Mr. and Mrs. Coddington (the appellants herein) in joint tenancy in the month of April, 1960, for the sum of \$8,900, at which time this area was zoned for duplex. The property at 1949 Bellevue Avenue was purchased by Mr. and Mrs. Coddington (the appellants herein) in joint tenancy in the month of January, 1961, for the sum of \$13,000, at which time the area had been rezoned for apartment use. At the times of the respective sales, all the parties were aware of the zoning regulations involved.
3. The improvement situate on 1941 Bellevue Avenue consists of a small cottage-type one-story building, of frame structure, which was built in the year 1925. The improvement situate on 1949 Bellevue Avenue consists of a cottage-type two-story building of frame structure, which was built in the year 1922.
4. Both of the properties involved have an average width of 50 feet and are approximately 125 feet in depth. All other pieces of property in the 1900 Block Bellevue Avenue are approximately the same size. The lot directly east of 1941 Bellevue Avenue has been assessed for 1962 at \$2,250. and the 66.4-foot lot directly west of 1949 Bellevue Avenue has been assessed for 1962 at \$3,240. All other land in the 1900 Block Bellevue Avenue, except the land owned by Mr. and Mrs. Coddington involved in this appeal, has been similarly assessed, the average lot assessment being \$2,750, depending on the frontage.

5. In the month of April, 1961. Mr. and Mrs. Coddington listed their properties at 1941 and 1949 Bellevue Avenue for sale for an asking price of \$45,500. Those properties were placed on the multiple listing service of the Vancouver Real Estate Board through Slinger Realty Ltd. at this said price for a three-month period.

and no offer of any nature was received. In evidence before the Board, Mrs. Coddington stated that the figure of \$45,500 was suggested to her by the real-estate agent at Slinger Realty Ltd. It may be inferred from the statement that this asking price should be "good and high" so that there would be room for negotiation on any offer that might be received. However, no offers were received as a result of this listing.

6. The property at 1941 Bellevue Avenue is presently subject to a year-to-year lease, which lease expires on January 1, 1963. The amount payable under this lease is \$960 a year payable at the rate of \$80 per month. The property at 1949 Bellevue Avenue is presently subject to a year-to-year lease, which lease expires on January 15, 1963. The amount payable under this lease is \$1,200 a year at the rate of \$100 per month.

7. The Assessor of West Vancouver, in giving his evidence, advised that in determining the actual value of the land as required by section 37 (1) of the Act, the properties situated at 1949 and 1941 Bellevue Avenue were considered a single apartment-site because both parcels are owned by the appellants in joint tenancy. Therefore, the Assessor stated that considering the two properties as one there would be a frontage of approximately 100 feet, which meant that an apartment block containing 26 suites could be constructed on the site and the property was assessed on that basis. The minimum site size for apartments is 99 feet frontage.

8. The Assessor gave evidence of sales of property in the apartment-zoned area, and being within two or three blocks of the subject property. These prices ranged from \$360 to \$520 per front foot. These sales were in the main for the acquisition of land being assembled for apartment-site purposes. It was stated by the Assessor that the assessments on the subject property were made on a comparable basis with other apartment-sites within two or three blocks of the subject property.

9. The Board upheld the assessment given by the Court of Revision and dismissed the appeal.

Wherefore the following questions are humbly submitted for the opinion of this Honourable Court:-

"1. Was the Board right in law in finding the actual value of each parcel upon the basis of the present joint value of the two parcels for potential joint use as a single apartment-building site?

"2. Was the Board right in law in finding that the assessment of the two parcels of land must be upon the basis of their present actual value, for potential apartment-sites, as opposed to their actual value in present use and their present actual rental value?

"3. Was the Board right in law in considering evidence of a listing of the two parcels for sale together at an asking price fixed by a real-estate agent which did not result in any sale or offer to purchase?

"4. Has the Appeal Board correctly applied section 37 (1) of the *Assessment Equalization Act* to determine the actual value of the land and improvements of each of Lots 6 and 7, Block 3, D.L. 775, W. 100 acres?"

**Reasons for Judgment** (by Court Order)

This Court doth order and adjudge that the Assessor of the Corporation of the District of West Vancouver amend the assessment roll of the Corporation of the District of West Vancouver in respect of Lots six (6), and Seven (7), Block Three (3), District Lot Seven Hundred and Seventy Five (775), W. 100 acres in the Municipality of West Vancouver, in the Province of British Columbia, by deleting the assessment for improvements in the sum of \$1,700 in respect of the said Lot Six (6) and \$1,800 in respect of the said lot Seven (7).

This Court doth further order and adjudge that the appeal and stated case otherwise than as aforesaid be, and the same is hereby dismissed without costs to either party.