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GYRATRON DEVELOPMENTS LTD.

v.

ASSESSOR OF AREA 9 - VANCOUVER

Supreme Court of British Columbia (A861453) Vancouver Registry

Before MR. JUSTICE H.P. LEGG (In Chambers)

Vancouver, June 26, 1986

Alan Frydenlund for the Appellant
J.K. Greenwood for the Respondent

[The decision of the Court was delivered orally. What follows is counsel's note.]

The Appellant had purchased, in a foreclosure, a residential property in Vancouver. In the Assessment appeal for 1985 evidence was presented by the Appellant to the Board of the amount it had paid, as well as certain land sales. Other sales evidence, both of improved and unimproved land, was presented by the Respondent Assessor, which supported the Assessment. The Board upheld the assessment.

The Court was asked whether the Board erred in placing too little reliance on the Appellant's value evidence, and whether the Board erred in making use of sales evidence of non-comparable properties.

HELD:

That these were questions of fact, not reviewable by the Court, involving the weighing of evidence.

The Court was also asked whether the Board erred in making use of evidence of a sale which took place after the valuation date.

HELD:

There is no rule of law that assessors cannot use sales on either side of the valuation date. That question, of whether the sale is determinative of actual value, is evidence to be weighed. There is thus no error in the Board looking at such a sale.

The case of Assessment Commissioner v. Houston (Stated Case 126) is not to be interpreted as laying down a restriction that evidence of a sale after the valuation date can only be used if there is evidence of no significant change in the market. In the subject case the Assessor's appraiser testified that he had adjusted the late sale to account for market decline since the valuation date. There was no error in the Board allowing such evidence.

The Appeal was dismissed with costs.