



MATTER WHITE PLAINS PROPERTIES CORP. v. TAX ASSESSOR CITY WHITE PLAINS ET AL.

407 N.E.2d 1332 (1980) | Cited 0 times | New York Court of Appeals | May 29, 1980

Opinion OF THE COURT

Memorandum.

The order of the Appellate Division should be affirmed, with costs.

Since the Appellate Division affirmed Special Term's finding that the building was not a specialty and it is not argued that there is no substantial evidence to support that conclusion we cannot reverse or modify (*Matter of Rochester Urban Renewal Agency* [Patchen Post], 45 N.Y.2d 1, 7; *Matter of Seagram & Sons v Tax Comm. of City of N. Y.*, 14 N.Y.2d 314, 317). The only issue before us, therefore, is whether the evaluation method used was erroneous.

Special Term used an income approach based on 3% of gross sales but recognized that the reproduction cost less depreciation method used in valuing specialties nonetheless influenced its determination in that the valuation placed on the building through the income approach could not exceed depreciated reproduction cost. The city argues that the cost approach should have been used not as a maximum only but to adjust value upwards, citing *G.R.F., Inc. v Board of Assessors of County of Nassau* (41 N.Y.2d 512, 514-515), which recognized that part of the construction cost of a "flagship" store may reflect not value to that store but value to the remainder of the shopping center. On the facts of this case the failure to make such an adjustment was not error. Here involved is not a "flagship" store but a freestanding department store in downtown White Plains. Moreover, the city did not demonstrate the legitimacy as a matter of economic theory of the adjustment for which it contends (*id.*, p 515; cf. *Matter of Merrick Holding Corp. v Board of Assessors of County of Nassau*, 45 N.Y.2d 538).

Disposition

Order affirmed, with costs, in a memorandum.

