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June 8, 2010

Dave McLaughlin-Smith, Superintendent
Crestwood School District
281 South Mountain Boulevard
Mountain Top, PA 18707-1913

RE: GLEN SUMMIT ASSESSMENT ISSUES

Dear Mr. McLaughlin-Smith:

You have retained our offices to review and investigate the propriety of the assessment reductions granted by the Luzerne County Board of Assessment Review for parcels of property owned by the Glen Summit Corporation.

Glen Summit Corporation owns three parcels of land. The main parcel is approximately 247 acres which includes leased lots with residences plus common areas, a clubhouse building, tennis courts and a small building adjacent to the courts. As a result of the county-wide reassessment, this parcel was valued at \$860,800. An informal appeal resulted in the removal of a garage structure that was not owned by Glen Summit and the assessment was reduced to \$628,900. A formal appeal was then heard and the assessment was reduced to \$463,900. This assessment is for the land (\$361,600) and accessory structures, including a club house and small tennis house (\$102,300).

The second tract of land is a 22 acre parcel which is about a mile long and about 100 feet wide. When it was reassessed, it was assumed by the county to be developable due to its square footage and the value was set at \$92,000.00. The parcel was also appealed by the property owner.

The third parcel is 400 acres of undeveloped land recently acquired by the Glen Summit Land Trust. This parcel is currently assessed at \$229,200 but receives a preferential tax rate based upon the owner's application and grant of Clean and Green status for this land. The land is heavily wooded and we are told it cannot be developed due to extensive underground springs.

Assessment Issues

On May 12, 2010, I met with Anthony Alu, Director of Assessments for the County, and two assessors who were involved with the appeal process for this property. We discussed the appeals involved with these parcels and I reviewed the property record cards.

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Dave McLaughlin-Smith, Superintendent
Crestwood School District
June 8, 2010
Page 2

The main parcel of the Glen Summit property is structured such that all residences (50+) are under a long-term (99 year) lease, renewable into perpetuity, for \$1 per year. Under the General County Assessment Law (GCAL), the fact that property is encumbered by long term, below market value leases must be considered when determining the market value of such property for ad valorem tax purposes. This is true because the GCAL defines market value as the price a purchaser, who is willing but not obligated to buy, would pay an owner, willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied. In the case of the main parcel of the Glenn Summit property, a buyer would be buying the land but not be able to use it because of the long term leases. Therefore, a buyer would really be buying the income stream derived from the land. Because these long term leases are for \$1 per year, the income stream is actually insignificant. It could be argued, however, that the true market value of this property is the income stream, minus the expenses and maintenance of the property and capitalized at an appropriate rate, generally 10%. This could, arguably, result in a negative value for this land. As a result of these arguments, the county reduced the value of the land to \$361,600.00.

Consideration of the buildings and deriving a market value for the buildings is even more complicated because they sit on encumbered land and create minimal income from seasonal rentals by residents. The initial value of the buildings, \$499,200, likely reflected the county's attempt to value the structures based upon their cost to build. It is also apparent from the county records that the initial re-evaluation assessment included the value of the church, which is not owned by Glen Summit and a pole structure which is also not owned by the company. On appeal, the county was compelled to remove those two structures from the value. Additionally, at the appeal the owner argued that the county was compelled to value these buildings considering their re-sale value. That is an appropriate argument. The owner presented evidence of value based upon the re-sale of other special purpose buildings, such as vacant church buildings. As a result of that argument, the county reduced the value of the buildings to \$102,300.00. This building value includes all structures on the land, including incidental buildings such as gazebos, because these structures must be valued based on either their re-sale value or the income stream they produce and not on their cost of construction.

Dave McLaughlin-Smith, Superintendent
Crestwood School District
June 8, 2010
Page 3

The second parcel owned by Glen Summit is a mile long, 100 ft. wide strip of land. The land is not developed and, due to its width, cannot be developed. However, during the reassessment, this parcel was valued based upon its square footage and a value of \$92,000 was placed on the parcel. Upon appeal and informal review by the county, it was determined that this parcel is not developable and the value was adjusted to \$22,000.00 which seems to be appropriate for unusable land.

The third parcel owned by Glen Summit Land Trust was not reduced in assessed value but was granted Clean and Green status based upon its current use as forest reserve and the fact that the land is undermined by springs precluding the ability to develop the land. The GCAL permits and encourages preferential tax treatment for land that is maintained as open space either as farmland or forest reserve. Should Glen Summit develop this land at some point in the future, the GCAL provides for a 5-year rollback of the preferential tax treatment so that the owner must pay the full tax that would have been due for the 5 years previous to the development of the land which is then immediately removed from Clean and Green status.

In addition to my meeting with the assessors and Director at the County, I had several telephone calls with Mr. Fred Heller concerning these issues. Mr. Heller is frustrated by what he believes is an unfairly low assessment for this property. His frustration is understandable if assessed value could be based upon either the cost of construction of the buildings or the land sale value of the land if it was not encumbered. However, as explained above, the cost of construction is not the basis for arriving at the market value of buildings and the land value must take into consideration the leases that encumber the land and how that encumbrance negatively impacts the ability to sell and use the land.

An ancillary question was raised regarding the tax status of property owned and operated by Glen Summit Spring Water Company. The Glen Summit Spring Water Company is a privately owned and operated water company not subject to PURTA tax restrictions. Accordingly, the county has the property classified as "Taxable" and has placed a market value for land and improvements at \$648,600. Therefore, the District is receiving taxes from this property.

Dave McLaughlin-Smith, Superintendent
Crestwood School District
June 8, 2010
Page 4

Accordingly, we find no basis to challenge the assessments placed on these parcels and would remind the District that in cases of appeals to assessments, the appealing party bears a significant burden of proof because the Court presumes the County's values to be correct.

I would be happy to address any further questions you, or your Board may have on these issues.

Very truly yours,



M. Janet Burkardt

MJB:mm