

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

<b>JAMESTOWN PREMIER ONE</b>	)	
<b>METRO CENTER CORP.,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
	)	2014 CA 004719
	)	Judge Maurice Ross
<b>DISTRICT OF COLUMBIA,</b>	)	
	)	
Defendant.	)	

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**FINAL ORDER**

This matter comes before the Court upon consideration of Defendant, District of Columbia’s, February 10, 2015 Motion for Reconsideration of this Court’s January 28, 2015 Order granting Plaintiff, Jamestown Premier One Metro Center Corp. (“Jamestown”), summary judgment.

**Background**

On July 13, 2013, Jamestown purchased the real property located at 700 12th Street, N.W., Washington, D.C. (Square 288, Lots 846 and 7001)(“Subject Property”). Subsequent to Jamestown’s purchase of the property, the District of Columbia Office of Tax and Revenue (“OTR”) created the Cap Rate Worksheet which indicated a capitalization rate related to Jamestown’s purchase of the Subject Property. OTR’s calculations indicated a capitalization rate of 5.98% for this sale.<sup>1</sup> The calculations used by OTR to derive the 5.98% capitalization rate are

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<sup>1</sup> This capitalization rate is often referred to as a “sale” or “extracted” capitalization rate.

set forth in the Cap Rate Worksheet that is the subject of this matter. OTR used this extracted capitalization rate, together with two other extracted capitalization rates, to establish a base capitalization rate that OTR used to assess the Subject Property and other similarly situated properties (so-called “Trophy Class” properties) for Tax Year 2015. These extracted capitalization rates, including the 5.98% rate indicated by the Cap Rate Worksheet, were also utilized by OTR to defend assessments during the appeal process.

On April 29, 2014, Jamestown’s authorized agent wrote a letter to Mr. Stephen Cappello, then Chief Assessor, Real Property Tax Administration, Office of Tax and Revenue, requesting a copy of the Cap Rate Worksheet for the Subject Property. On or about May 15, 2014, OTR issued a letter denying Jamestown’s April 29th request. On or about May 23, 2014, Jamestown filed an appeal of OTR’s May 15th denial with the Mayor. On or about June 20, 2014, the Mayor issued a decision upholding OTR’s denial of Jamestown’s request.

On July 31, 2014, Jamestown filed the instant Complaint for Declaratory and Injunctive Relief. On January 28, 2015, this Court granted Jamestown’s Cross-Motion for Summary Judgment and held that “pursuant to D.C. Code § 47-823(b), the Plaintiff has the statutory right to inspect the Cap Rate Worksheet.” On February 10, 2015, the District filed its Motion for Reconsideration of the Court’s January 28, 2015 Order. To better understand the technical assessment and real property valuation issues presented in the case, the Court requested that the parties produce expert witnesses to testify at an evidentiary hearing.

### Discussion

The issue in the instant case is whether Jamestown has a statutory right, under D.C. Code § 47-823(b) and 9 D.C.M.R. § 309.2, to inspect and copy the “Cap Rate Worksheet” prepared by the District to extract a capitalization rate from Jamestown’s purchase of the Subject Property.

In its motion for reconsideration, the District advanced the position that D.C. Code § 47-823(b) only requires that the District make available “any notes and memorandums relating to the assessment of his real property, or a statement clearly indicating the basis upon which his real property has been assessed.” The District reads this command in the disjunctive and asserts that if it provides “a statement clearly indicating the basis upon which his real property has been assessed” then it has satisfied its statutory obligation. The District further claimed that in this matter it had complied with this directive by providing Jamestown with the Assessor’s Worksheet, which the District alleges is “a statement clearly indicating the basis upon which his real property has been assessed.”

Jamestown asserts that the Assessor’s Worksheet was not “a statement **clearly** indicating the basis upon which [its] real property [had] been assessed.” (Emphasis added.) Because the Assessor’s Worksheet was not “a statement clearly indicating the basis upon which [its] real property [had] been assessed,” Jamestown claims that it is then entitled to “any notes, [records] and memorandums relating to the assessment of his real property.” *See* D.C. § 47-823(b); 9 D.C.M.R. § 309.2 (“Records of individual real properties, including any notes, memoranda, and statement(s) indicating the basis upon which the real estate has been assessed, shall be open for inspection by the owner or the owner's duly authorized representative during normal business hours . . . .”). Jamestown also asserts that 9 D.C.M.R. § 309.2, OTR’s own interpretation of § 47-823(b), provides Jamestown with the right to inspect “records” of its real property regardless

of whether the Assessor's Worksheet constitutes "a statement clearly indicating the basis upon which his real property has been assessed."

On October 29, 2015 and December 11, 2015, the Court held an evidentiary hearing regarding the factual issue of whether the Assessor's Worksheet constitutes "a statement clearly indicating the basis upon which his real property has been assessed." Testifying before the Court were Mr. Robert Farr, Director of Real Property Tax Administration, District of Columbia Office of Tax and Revenue, and Mr. Thomas Stevens, Senior Assessor Market Analysis, Real Property Tax Administration, District of Columbia Office of Tax and Revenue. The Court designated both individuals as experts regarding District of Columbia assessment processes and procedures.

During the course of examination by Jamestown's counsel, both Mr. Farr and Mr. Stevens had extreme difficulty explaining how the Assessor's Worksheet operates, how certain calculations were performed, what certain figures and terms represented, and how the actual numbers presented on the Assessor's Worksheet were calculated. Mr. Farr, the Director of the division responsible for assessing all properties in the District, was unfamiliar with even the basic workings of the Assessor's Worksheet. Mr. Stevens, the individual who actually completed the Assessor's Worksheet, was unable to indicate how various calculations contained within the worksheet were performed. When Mr. Stevens attempted to reproduce the mathematical equations that he indicated produced the final result, he was unable to do so. Mr. Stevens was forced to concede that the Assessor's Worksheet contained a number of figures and calculations that he could not explain. It is not an overstatement to characterize Mr. Stevens as dumbfounded regarding certain aspects of the Assessor's Worksheets. Furthermore, Mr. Farr and Mr. Stevens acknowledged that a taxpayer would be unable to understand various components of the Assessor's Worksheet.

Based on the testimony of Mr. Farr and Mr. Stevens, both of whom have far more experience with the Assessor's Worksheet than the average taxpayer, the Court finds that the Assessor's Worksheet does not constitute "a statement **clearly** indicating the basis upon which his real property has been assessed." (Emphasis added.)

The Court also heard testimony that the Cap Rate Worksheet is a document that is kept within OTR's electronic file storage system and that this document was used by OTR in assessing the Subject Property for Tax Year 2015. Accordingly, this Court finds that the Cap Rate Worksheet is a "record" of the Subject Property for purposes of D.C. Code § 47-823(b) and 9 D.C.M.R. § 309.2.

Because the Assessor's Worksheet does not constitute "a statement clearly indicating the basis upon which his real property has been assessed," Jamestown is entitled to "any notes, [records] and memorandums relating to the assessment of his real property." *See* D.C. § 47-823(b); 9 D.C.M.R. § 309.2. The Cap Rate Worksheet is incorporated by reference into the tax files for the Subject Property notwithstanding OTR's attempt to physically separate it from other documents relating to the Property. Furthermore, because the Cap Rate Worksheet constitutes a "record" of the Subject Property, Jamestown is entitled to inspect and copy the document.

Belatedly, OTR argues that the information in the Cap Rate Worksheet is confidential, and OTR is prohibited from disclosing it under D.C. law, citing to D.C. Code §§ 47-821(d)(2)(A), 47-823(e), and 47-4406. The first fatal flaw in OTR's argument is that § 47-821(d)(2)(A) allows disclosure pursuant to a Court order. Second, § 47-821(d)(2)(B) provides that notwithstanding the non-disclosure provision, "the Mayor shall permit a valuation record of the real property to be inspected". Third, § 47-4406 relates to tax returns. Thus, none of the cited provisions precludes release of the Cap Rate Worksheet.

**WHEREFORE**, it is this 15<sup>th</sup> day of December 2015, hereby,

**ORDERED**, that Defendant's Motion for Reconsideration of this Court's January 28, 2015 Order granting Plaintiff's Summary Judgment is hereby **DENIED**; and it is further

**ORDERED**, that pursuant to D.C. Code § 47-823(b) Plaintiff has a statutory right to inspect and copy the Cap Rate Worksheet; and it is further

**ORDERED**, that the District shall permit Plaintiff to inspect and copy the worksheet by December 16, 2015.

*Maurice A. Ross*

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Judge Maurice A. Ross

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*Def*

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Civil Division**

**JAMESTOWN PREMIER ONE  
METRO CENTER CORP.  
Plaintiff,**

**2014 CA 004719  
Judge Maurice Ross**

**V.**

**DISTRICT OF COLUMBIA,  
Defendant.**

**ORDER**

Upon consideration of Plaintiff's Cross-Motion for Summary Judgment, the Memorandum of Points and Authorities in Support Thereof, any opposition thereto, any hearing conducted thereon, and the entire record herein, it is this 28<sup>th</sup> day of January 2015, hereby,

**ORDERED**, that the Plaintiff's Cross-Motion for Summary Judgment is **GRANTED**; and it is further

**ORDERED**, that pursuant to D.C. Code § 47-823(b), the Plaintiff has the statutory right to inspect the Cap Rate Worksheet; and it is further

**ORDERED**, that the District shall permit Plaintiff to inspect the Cap Rate Worksheet by February 4, 2015.

**SO ORDERED.**

*Maurice A. Ross*

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Judge Maurice A. Ross

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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Civil Division**

<b>JAMESTOWN PREMIER ONE</b>	:	
<b>METRO CENTER CORP.</b>	:	
<b>Plaintiff,</b>	:	<b>2014 CA 004719</b>
	:	<b>Judge Maurice Ross</b>
<b>V.</b>	:	<b>Next Event: Scheduling Conference</b>
	:	<b>October 31, 2014</b>
	:	
<b>DISTRICT OF COLUMBIA,</b>	:	
	:	
<b>Defendant.</b>	:	

**ORDER**

Upon consideration of Defendant's Amended Motion to Dismiss or, in the Alternative for Summary Judgment, the memorandum of points and authorities in support thereof, any opposition thereto, any hearing conducted thereon, and the entire record herein, it is this 28<sup>th</sup> day of January 2015, hereby,

**ORDERED**, that the Defendant's Amended Motion to Dismiss or, In the Alternative, for Summary Judgment is **DENIED**.

*Maurice A. Ross*

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Judge Maurice A. Ross

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