

**American Property Investment 3, et als  
(One Granite Place)**

**v.  
City of Concord**

**Docket Nos. 3935-87, et als**

**DECISION**

A hearing in this appeal was held, as scheduled, on September 21, 1989. The Taxpayers were represented by David A. Horner, Agent. The City was represented by David D. MacArthur, Concord Assessor.

The Taxpayer appeals the following assessed valuations for the tax years 1987 and 1988. The parties, in the interest of judicial economy have agreed to consolidate the two tax years for hearing and action by the Board of Tax and Land Appeals.

- 1) American Property Investment 3 v. City of Concord  
3935-87 & 4229-88  
Map 102, Block 2, Parcel 20  
B/O \$2,846,770
  
  - 2) United Life and Accident Insurance v. City of Concord  
3936-87 & 4227-88 Lot 2362  
Map 102, Block 2, Lot 20, Subdiv. A  

Land	\$205,690	Maintenance building and yard imp.
Building	<u>\$ 62,830</u>	
	\$268,520	
  
  - 3) Volunteer State Life Insurance v. City of Concord  
3937-87 & 4228-88  
Map 102, Block 2, Lot 21  

Land	\$ 483,350	(New Building)
Building	<u>\$3,500,990</u>	
	\$3,784,340	
  
  - 4) Chubb America v. City of Concord (SETTLED, NOT CONTESTED)  
3938-87 & 4230-88  
Map 102, Block 1, Lot 25  
L/O \$39,240
- Total \$6,938,870

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The parties agreed that the equalization ratio for the City of Concord for the 1987 tax year was 35% and 29% for the 1988 tax year.

The Board of Tax and Land Appeals took a view of the subject property in the company of representatives of both the Taxpayer and the City.

Mr. David A. Horner, Agent for the Taxpayer, submitted an appraisal based on the income approach to value and found a 100% value of \$17,118,000. Using the 35% equalization ratio for 1987, the adjusted assessed value would be \$5,991,300.

The petitioners rental survey of "Class A" Office Space in Concord, New Hampshire referenced the following comparable rentals:

The Stewart Nelson Building  
143 North Main St.  
Concord, NH

The Capitol Plaza  
Warren and North Main Streets  
Concord, NH

Franklin Pierce College Building  
Pembroke Road  
Concord, NH

The following physical description of the subject property by the City Assessor contains more detail than any other made available to the Board at the hearing:

"Subject property consists of two office structures, one built in 1976 and one built in 1986, joined by an atrium built in 1976. The structure would market as one entity and is appraised as such. In addition, there is a workshop of 5,270 square feet, a dam, site improvements including paved and lighted parking areas of 357,500 square feet and a paved perimeter (sic.) road of 211,200 square feet.

The office structure including atrium is four stories high, has a total square footage of 212,950 square feet and a total perimeter (sic.) of 1,452'. Exterior walls are 4" brick on 8" concrete block. Frame is open steel, 24' x 24' bays, I-beam columns. Construction is fire resistant. Floors are 4" concrete on steel I-beam and girders. Roof is tar and gravel on concrete decking supported by steel I-beam and girders. Exterior walls have 20% to 25% glass.

Heating is forced hot water, baseboard radiation in the new section and one-half hot water and one-half air circulation in the original

section. The new section has two airconditioning units totaling  
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tons, and the original section has perimeter units plus roof units, 60 tons each, for a total of 201 tons. Plumbing consists of 63 basins, 69 water closets, 20 urinals, 10 water fountains, 21 service sinks and 12 showers. The office building is 100% sprinklered by wet concealed type. There is a total of 6 elevators, 4 rated at 2,500 pound capacity, 1 at 2,000 pounds and one at 4,000 pounds. All are 4-stop, 125 FPM.

Interior finish is wall-to-wall carpet tiles, acoustical tile ceiling and sheetrock walls. The majority of the area is open space planning with 8' high partitions. The executive level in the new section has 16 permanent offices with floor to ceiling drywall partitions.

Depreciation. Approximately one-half of the total area was constructed in 1977, but refurbished in 1986 when the new section was completed. The entire structure has an effective age of 2 years and a total economic life of 60 years. The shop, dam, site improvements and perimeter road have a total economic life of 25 years and an effective age of 2.5 years. There is no evidence of functional obsolescence."

The City's Assessor, Mr. David MacArthur, used the cost approach and found a value of \$19,813,000 and the Income approach to value and found \$20,500,000. His final 100% value estimate was \$19,800,000.

In his summary he made the following observations:  
"Subject property is a unique, special purpose property, due to its size and design. It is appropriate for one use, or a very limited number of uses. The Highest and Best Use is the continuation of its existing use. This does not mean that subject real estate lacks value. There are sales such as the Pan Am building and the Joseph Seagram building in New York City that exceeded dramatically the appraised values arrived at by the Cost Approach.

Market value of this unique property is determined by the Theory of Substitution. The owner-occupant can be considered a potential buyer, in that he would not pay more to build a new complex than the replacement cost less depreciation plus land value of the existing complex.

The income approach is offered in this analysis as a test of the results of the cost approach. The income approach considered above as a test of market value is not practical due to the forces of supply and demand.

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The approach assumes that many tenants would rent space in the subject, not that one tenant would rent the entire complex. If the Concord Market was flooded with 212,000 square feet of office space for rent, overall vacancy rates in the city would exceed 65% and per square foot rental rates would be less than operating costs. The situation would not be economically feasible and therefore the subject property would not market as an income producing property.

The tax courts have supported the use of the Cost Approach in the valuation of special purpose properties. Economic principals and appraisal theories support the Cost Approach."

The Board finds Mr. MacArthur's report to be the best evidence of value.

The Board was not impressed with the petitioners selection of down town "generic" office buildings which due to substantial differences in size, age, condition, desirability (obsolescence) and location require much more than the 25% "discount" allocated by the Taxpayer's appraiser, Mr. Horner, for size alone. In fact the Board finds the so called comparable rental properties of little or no probative value compared to the subject's campus type, "special purpose, owner occupied, monumental development" worthy of a company anxious to achieve an international corporate image, which reflects institutional pride, prestige and success. The City Assessor allowed for a \$2 million discount (10% of physical value) to compensate for extensive marketing time and costs necessary to properly expose the subject property to the market place for future sale or rental.

The Board therefore rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore: Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(Ms. Richmond did not sit.)  
Anne S. Richmond, Esq., Chairman

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George Twigg, III, Member

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Peter J. Donahue, Member

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Paul B. Franklin, Member  
Acting Chairman

Date: February 14, 1990

I certify that copies of the within Decision have this date been mailed, postage prepaid, to David A. Horner, Agent for American Property Investment, et als, taxpayer; and the Chairman, Board of Assessors of Concord.

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Michele E. LeBrun, Clerk

Date: February 14, 1990

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