

Real Estate Tax Appeal Victory Following Trial for West Orange Retail Property Owner

10/27/2021

In a Tax Court case tried to conclusion before Tax Court Judge Joshua D. Novin in the matter of *West Orange Plaza v. Township of West Orange*, the 2014-2019 assessments were reduced to reflect the declining value of community shopping centers. The tax refund due from the successful appeal is approximately \$1.1 million plus interest.

Some of the notable conclusions the Court reached in reducing the assessments are:

- The Court rejected the Township expert's highest and best use conclusion that the basement retail space of 102,912 square feet could be subdivided into two retail big box spaces due to: (1) limited access, parking and visibility for the basement space; and (2) the expert's conclusion of the cost to convert the basement space to big box retail was not supported by the evidence and consequently his highest and best use conclusion was not credible;
- The Court agreed with West Orange Plaza's expert analysis and conclusion for valuation of the 102,912 SF basement retail area at 50% of the ground level retail space;
- The Court allowed a tenant improvement allowance consistent with West Orange Plaza's expert's conclusion of \$1.00 per square foot, per year since the evidence reflected that following the 2008 economic recession, the retail market required landlords of retail stores to furnish tenant allowances to entice new tenants; and
- The Court concluded a base capitalization rate of 6.69% for tax years 2014-2017 and 6.94% for 2018-2019 for the subject retail property.

To read a copy of the opinion in the matter of *West Orange Plaza v. West Orange*, [click here](#).