

TAX COURT OF NEW JERSEY



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JUDGE

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**NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE TAX COURT  
COMMITTEE ON OPINIONS**

August 18, 2025

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Re: Ameream LLC v. Borough of East Rutherford

Docket No. 007852-2025 and BER-L-002859-2025

Dear Messrs. Myers, Bullock, and Porro:

This letter constitutes the court's opinion after trial in the above-referenced matter. For the tax years 2019 through 2025, Plaintiff, Ameream LLC. (hereinafter "Plaintiff" or "Ameream"), sought direct review of the assessments for its properties in East Rutherford, New Jersey, commonly known as the American Dream Mall. For reasons which will be set forth more fully below, an expedited trial was held, focused solely upon valuation of the properties for the 2025 tax year. This opinion sets forth the Court's decision reducing the assessments for said year.

# **I. Procedural History**

The 2025 assessments for the subject properties, totaling \$2,500,000,000 are as follows:

Block/Lot/Qual	Street Address	Land	Improvement	Total
107.02/1.01	Rt. 20 & Paterson Plank Rd	\$157,545,600	\$0	\$157,545,600
107.02/1.01/COMPA	One American Dream Way	\$0	\$359,676,100	\$359,676,100
107.02/1.01/COMPB	One American Dream Way	\$0	\$359,676,100	\$359,676,100
107.02/1.01/COMPC	One American Dream Way	\$0	\$359,676,100	\$359,676,100
107.02/1.01/COMPD	One American Dream Way	\$0	\$359,676,100	\$359,676,100
107.02/3/COMPA	Meadows & Rt 20	\$25,180,000	\$394,145,000	\$419,325,000
107.02/3/COMPB	Meadows & Rt 20	\$23,020,000	\$461,405,000	\$484,425,000

Plaintiff, the owner and developer of the property, filed direct appeals challenging the assessments for the subject property for the tax years 2019-2025.<sup>1</sup> Litigation of these appeals was complex, as the property is not subject to traditional taxation, but rather, is the subject of a long term PILOT program in which the payments in lieu of taxes are equal to 90% of the taxes which would otherwise be due. A small portion of this is paid to the Defendant Borough of East Rutherford (hereinafter “Defendant” or “Borough”), with the remainder paid to a trustee for service of the bond debt incurred to finance the project.<sup>2</sup>

<sup>1</sup> The prior appeals filed by plaintiff include Tax Court Dockets 008075-2019, 005498-2020, 005434-2021, 006173-2022, 007135-2023, and 007313-2024, as well as BER-L-2286-23 and BER-L-2575-24.

<sup>2</sup> It is, perhaps, necessary to make at least cursory mention of the subject property’s history. Proposals for a project including a super-regional mall were originally sought by the New Jersey Sports and Exposition Authority in 2002. Originally designated the ‘Xanadu’ project, after a series of delays, developers, and a financial crisis, the project was revived by the Plaintiff, and was made economically feasible through public incentives and bonding.

As litigation of these matters progressed, a question was raised as to whether the terms of the PILOT and associated financial agreement precluded Plaintiff from recouping payments already made, even if successful in reducing a previous year's assessments.<sup>3</sup> The Court invited motions for partial summary judgment on this issue of remedy, as the potential absence of a remedy for past years could render the need for trial in those matters moot. While awaiting post argument briefing, the court offered the parties the opportunity to hold an expedited trial on valuation for the 2025 tax year, such that if the assessment were reduced, said reduction could be reflected through adjustment of the PILOT payments for the 3<sup>rd</sup> and 4<sup>th</sup> quarters.

The parties accepted the Court's offer, advising they could exchange expert reports by late June. The Court cleared its calendar, dedicated the month of July for trial of this matter, and further encouraged the parties to meet ahead of trial to stipulate to any facts in which they were in reasonable proximity. Ideally, the trial could then be swiftly conducted, allowing the Court to issue its decision and judgment prior to the August 1, 2025 date for the 3<sup>rd</sup> quarter payment, thus ensuring Plaintiff's right to some manner of remedy, even if the traditional remedy of refund of overpayment of taxes is subsequently deemed unavailable.

After meeting several times, the parties contacted the Court to advise that they were making good progress regarding stipulations of fact, and requested that the trial date be briefly adjourned so that they may return to mediation with Hon. Joseph Andresini, J.T.C. (Ret.) in hopes of finding further points of agreement before commencing with trial. The court granted the adjournment request, and the parties worked diligently with Judge Andresini, resulting in a comprehensive stipulation of facts which substantively narrowed the issues to be tried by the Court.<sup>4</sup>

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<sup>3</sup> The specific issues involving the PILOT and financial agreement's explicit authorization for the filing of a tax appeal, and the separate provisions which cast doubt on the availability of traditional remedies, will be addressed in the Court's future decision on the parties' motions for partial summary judgment for the prior years under appeal. But it is this open question which led to the expeditious trial described herein.

<sup>4</sup> The Court commends counsel and experts for both parties for their good faith and hard work in advancing this litigation. Valuation of properties such as this involves a multitude of issues, each of which requires consideration of

Trial was conducted the week of July 14<sup>th</sup>, wherein the Court accepted the parties' stipulations of fact, took testimony from the parties' experts to ensure the reasonableness of said stipulations, took testimony on the issues remaining in dispute, and conducted a site inspection of the subject property. During trial, further stipulations were reached on the issues of cap rate and external obsolescence, obviating the need for further testimony on said issues other than testimony establishing the agreed upon numbers as reasonable and supported by both parties' experts. Given that the stipulations of fact reached between the parties would impact each of their experts' conclusions of value, the expert reports were accepted into evidence for limited aspects of their data and methodology, but not for their conclusions of value.<sup>5</sup>

Ultimately, the two primary issues which remained in dispute were whether a valuation of the property requires deduction of a cost to complete to reflect the unfinished state of construction for certain portions of the property and the appropriate valuation method for the Amusement Park / Waterpark section of the property.

## **II. Findings of Fact and Conclusions of Law**

At the outset, the Court notes that the presumption of validity which attaches to all assessments has been overcome. Even had the parties not reached stipulations of fact which would call the original assessment into question, a review of Plaintiff's expert's report and accompanying testimony through "rose-colored glasses," MSGW Real Estate Fund, LLC v. Borough of Mountain Lakes, 18 N.J. Tax 364, 379 (Tax Ct. 1998), would easily surpass that threshold.

Based upon the appraisal reports submitted, the testimony provided by each of the experts, and the stipulations of fact submitted by the parties, the Court makes the following findings: the subject

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dozens of factors, each inextricably linked and dependent upon one another. Thus, finding agreement on one factor in which the parties were already not far apart, necessarily impacts the related factors, sometimes narrowing the gap and making the next agreement possible.

<sup>5</sup> Although the court is not accepting the expert reports for their conclusions of value, it is noted that Plaintiff's expert originally concluded a combined value of \$960,000,000, whereas Defendant's expert originally concluded a value of \$2,500,000,000

property consists of two primary components, the “ERC” or Entertainment and Retail component, and the “AP/WP” which is comprised of the Amusement Park, the Waterpark, and the Core Building connecting the two. The marketable square footage for the entirety is 3,150,908 square feet. Plaintiff’s expert asserts, and the Court personally observed, that meaningful portions of the property remain in a substantively incomplete state of construction. Specifically, two of the anchor tenant locations, the movie theater location, and the performing arts center location are in unfinished states that would require significant construction to be useable. There is also a sizable amount of vacant general retail space that requires various amounts of additional construction to be leasable.

Both experts agree that continuation of the present use is the highest and best use of the property. The parties have stipulated, and the court agrees, that the appropriate method of valuation for the ERC is the income approach. They further stipulated to a net operating income for the ERC of \$93,611,872, and a cap rate of 8.25%. The Court heard testimony from the parties’ experts regarding the stipulations for net operating income and cap rate and finds both to be reasonable and appropriate. The parties were not originally far apart regarding income for the ERC, and Defendant’s expert testified that the agreed upon cap rate was reasonable, given the increased investment risk described by Plaintiff’s expert. Application of the cap rate to the agreed upon net operating income results in a net value of \$1,134,689,358 for the ERC. Thus, the primary issue to be decided by the Court in valuing the ERC is whether a deduction for cost to complete should be applied to this net value to account for the areas requiring additional construction.

The general rule in real property taxation is that property must be valued “in the actual condition in which the owner holds it.” Newark v. Township of West Milford, 9 N.J. 295, 303, (1952). While Defendant’s expert describes any application of a cost to complete as a ‘double dip,’ there is nothing in the record to substantiate this view. As previously described, substantive areas of the subject property remained significantly incomplete as of the valuation date, and this fact must be accounted for when determining value. Defendant’s expert states that he inflated his original 5% vacancy and collection rate

to 12% to reflect this need, however, his submitted report simply states that the subject market revealed “vacancy and credit loss factors ranging from 3% to 40% with an average of 12.4% . . . [t]herefore, a vacancy and collection factor of 12% will be utilized...”<sup>6</sup> Nothing in the report quantifies the incomplete construction, and nothing in the report suggests his vacancy rate was in any way intended to address same. His testimony to the contrary was unpersuasive.

By contrast, Plaintiff’s expert report makes the uncontroverted assertion that approximately 30% (or 746,989 sq ft) of the marketable retail, dining, and entertainment space remains incomplete, and provided a breakdown of his determination of the cost to complete in Exhibit P1B, an amendment to his original report which further detailed his calculations in a more granular fashion.<sup>7</sup> He also provided persuasive testimony as to why a deduction for cost to complete was necessary to value the property in its actual condition as of October 1, 2024, including how this would be highly relevant to a prospective buyer. As such, the Court finds that a deduction for cost to complete is necessary to accurately value the property in its actual condition as of the valuation date. Plaintiff’s expert provided ample support for delineation of the various areas in need of completion, as well as his averaged cost per square foot for completion of same. Given this well supported analysis, the Court accepts Plaintiff’s expert’s calculation of \$206,000,000 for the cost to complete. Deducting this from the previously derived value of \$1,134,689,358 results in a net value of \$928,689,358 for the ERC portion of the property.

Regarding the Amusement Park / Waterpark, while the parties differ as to whether the same should be valued via the income approach or the cost approach, they were able to stipulate as to all the elements of the cost approach should the Court determine it to be appropriate. As reflected in the data

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<sup>6</sup> Theodore J. Lamicella, Jr., Appraisal Report of the Real Property known as 1 American Dream Way, East Rutherford, Bergen County, New Jersey Block: 107.02 Lot 1.01 Qual: COMPA, COMPB, COMPC, & COMPD, Lot: 3 Qual: COMPA & COMPB, at 90

<sup>7</sup> The court notes that the more granular breakdown in Exhibit P1b not only assists the court in its analysis, but should prove useful to the defendant in assessing the property for future years, as anticipated construction is completed, and the necessary adjustment for cost to complete is consequently reduced. Barring future negative market trends, it seems clear that continued operation and completion of the subject property will only serve to increase its value going forward.

from Exhibit P1A, and as modified by the parties' subsequent stipulation on external obsolescence, value pursuant to the cost approach is as follows:

<b>Stipulated Hard Costs – Parks &amp; Core Building (Cumming Estimates as of 10/1/23)</b>	
Amusement Park	\$257,379,930
Water Park	\$303,944,787
Core Building	\$ 94,661,425
Total Stipulated Cost New – Parks & Core Building	<b>\$655,986,142</b>
<b>Stipulated Hard Costs adjusted by MVS Cost Index Trending Factor - 10/1/24 (2.20%)</b>	
Amusement Park	\$263,042,288
Water Park	\$310,631,572
Core Building	\$ 96,743,976
Total Stipulated Hard Costs – Parks & Core Building	<b>\$670,417,837</b>
<b>Add: Stipulated Soft Cost Allowance – 12% of Stipulated Hard Costs</b>	\$80,450,140
Subtotal of Stipulated Hard & Soft Costs	<b>\$750,867,977</b>
<b>Add: Stipulated Entrepreneurial Incentive – 10% of Stipulated Hard &amp; Soft Costs</b>	\$75,086,797
Subtotal of Total Development Costs	<b>\$825,954,775</b>
<b>Less: Stipulated Depreciation – Parks &amp; Core Building – 10.5%</b>	(\$86,725,252)
Subtotal – Depreciated Improvement Value	<b>\$739,229,523</b>
<b>Less: Stipulated External Obsolescence – 6.86%</b>	(\$56,734,467)
Total Depreciated Value of Improvements	<b>\$682,495,056</b>
<b>Add: Stipulated Land Value</b>	\$42,775,000
Stipulated Market Value Indicated by Cost Approach	<b>\$725,270,056</b>

Plaintiff's expert utilizes the cost approach as a secondary method of valuation for the Amusement Park / Waterpark, but asserts that the income approach is more appropriate for multi-tenanted, income producing properties of this type. He cites articles from Hotel & Leisure Advisors in further support of utilizing the income approach for indoor waterparks. While Plaintiff's argument in favor of the income approach is intriguing, the Court remains wary given the owner-operated nature of the Amusement Park / Waterpark in the subject property, as well as the extensive extrapolations required to treat this portion of the property as income producing. Determination of which method of valuation to utilize "will depend on the facts of each case and the reaction of the experts to those facts." Coca-Cola Bottling Co. of New York v. Neptune Township, 8 N.J. Tax 169, 176 (Tax Ct. 1996), citing, New

Brunswick v. Tax Appeals Div., 39 N.J. 537 (1963). While the Court remains open to being further convinced in future years, for now, it will rely on the hybrid approach espoused in Livingston Mall Corp. v. Livingston Twp., 15 N.J. Tax 505 (Tax Ct. 1996), utilizing the income approach for the ERC as already expressed, and the cost approach for the owner-operated Amusement Park / Waterpark. As the parties have already stipulated to a \$725,270,056 market value as indicated by the cost approach, the Court finds the combined value of the property in total to be \$1,653,959,414 which it will round to \$1,653,960,000.

The allocation of this to the various components is as follows:

Block/Lot/Qual	Street Address	Land	Improvement	Total
107.02/1.01	Rt. 20 & Paterson Plank Rd	\$139,773,100	\$0	\$139,773,100
107.02/1.01/COMPA	One American Dream Way	\$0	\$197,229,200	\$197,229,200
107.02/1.01/COMPB	One American Dream Way	\$0	\$197,229,200	\$197,229,200
107.02/1.01/COMPC	One American Dream Way	\$0	\$197,229,200	\$197,229,200
107.02/1.01/COMPD	One American Dream Way	\$0	\$197,229,200	\$197,229,200
107.02/3/COMPA	Meadows & Rt 20	\$22,345,900	\$314,283,800	\$336,629,700
107.02/3/COMPB	Meadows & Rt 20	\$20,429,100	\$368,211,300	\$388,640,400

Finally, the Court notes that in determining this allocation, the cost to complete was divided and applied equally among the four (4) One American Dream Way improvements which make up the ERC.