

**IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA**  
**CIVIL DIVISION**

DWIGHT PENBERTH,	:	
	:	
Plaintiff	:	
	:	
Vs.	:	No. 13-2165
	:	
CARBON COUNTY BOARD	:	
OF ASSESSMENT APPEALS,	:	
	:	
Defendant	:	

Dwight Penberth	Pro Se
Robert S. Frycklund, Esquire	Counsel for Defendant
Robert T. Yurchak, Esquire	Counsel for Intervenor

**MEMORANDUM OPINION**

Matika, J. - April , 2014

The matter comes before the Court by virtue of an Assessment Appeal filed by Appellant, Dwight Penberth. After hearing thereon, this Court makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The property which is the subject of this Appeal is 613 East Patterson Street, Lansford, PA. 18232.
2. This property, owned by Dwight Penberth is further identified as tax parcel number 122A4-22-F5.01.
3. This property was purchased by Dwight Penberth on March 14, 2013, for the price of Three Thousand Dollars

(\$3000.00).

4. Situated upon the real estate in question is a single family dwelling which is in deteriorating condition and has not been occupied for at least fifteen (15) years.
5. The predetermined ratio used to assess taxpayers in Carbon County for the tax year 2014 is fifty (50) percent of the fair market value.
6. The common level ratio as determined by the State Tax Equalization Board for properties in Carbon County for the tax year 2014 is fifty-two (52) percent of the fair market value.

#### **CONCLUSIONS OF LAW**

1. The fair market value<sup>1</sup> of 613 East Patterson Street, Lansford, PA, for the tax year of 2014 is Three Thousand Dollars (\$3000.00).

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<sup>1</sup> "For real estate tax assessment purposes, fair market value is the actual value of the property, and is defined as the price a purchaser, willing but not obliged to buy, would pay an owner, willing but not obliged to sell, considering all uses to which the property is adapted and might reasonably be applied." *Downingtown Area School District v. Chester County Board of Assessment Appeals*, 913 A.2d 194 (Pa. 2006). Here Penberth paid Three Thousand Dollars (\$3000.00) for a property he described as "deteriorating" and abandoned for fifteen (15) years or longer. This explained the nominal price he paid for the property.

Panther Valley, the intervenor in this case cited the case of *RAS Development Corporation v. Fayette County Board of Assessment Appeals*, 704 A.2d 1130 (Pa. Commonwealth Ct. 1997) in support of its position that the assessed value should be Fourteen Thousand, Three Hundred Dollars (\$14,300.00). In *RAS Development Corporation*, the Court held that the Trial Court did not err in failing to adopt the purchase price of the subject property as controlling in determining its assessed value. *Id.* at 1135-36. In that case the subject property was sold at a sheriff's sale to RAS and as

2. The common level ratio shall be applied to the actual fair market value of real estate in Carbon County for the tax year 2014 to determine the property's assessed value for 2014.
3. The assessed value of the property identified as tax parcel number 122A4-22-F5.01 for the tax year 2014 and thereafter until legally changed is One Thousand Five Hundred and Forty-Seven Dollars (\$1,547.00).

Accordingly, this Court enters the following Order:

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a result the expert testified and identified that sale as a "distressed sale" thereby invoking a decreased purchase price. This is not the case present before the Court. It is true that the seller of this property, Land Tycoon, Inc., purchased it at a tax sale from the Carbon County Tax Claim Bureau, however, it was then sold to Penberth at an arm's length transaction for Three Thousand Dollars (\$3000.00). Like the Tax Claim Bureau, which only serves to to recover unpaid taxes and costs, most banks in foreclosure cases simply want to recover as much of their cost as they can. Unlike Banks and Tax Claim Bureaus, the goal of a bonafide seller is to make money on the sale. While Three Thousand Dollars (\$3000.00) does not seem like a significant amount of money to sell this property for, it was sold and purchased for this price due to its deplorable condition. Neither the County nor the school district presented any testimony or evidence to contradict these compelling facts.