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Property Valuation TOPICS

Recent Property Valuation Developments

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In This Summer 2012 Issue:

Governor Vetoes Revaluation Postponements

Farmington, New Britain, Norwich, Stamford and Windham pushed legislation through the Connecticut General Assembly which would have allowed them to postpone their scheduled 2012 revaluations until 2013. (They last revalued in 2007.) In past years, this type of special pleading was routinely approved by the General Assembly and signed by the sitting governor.

In a change of course, Governor Dannel P. Malloy vetoed the legislation on June 6. In doing so, he stated "that delaying regularly scheduled revaluations for just these communities, and not for other communities that are similarly situated, is unfair . . . ." Noting that the purpose of a revaluation is to make sure that all properties, "whether . . . residential, commercial or industrial" are fairly and equitably valued, the governor stated that "[d]elaying revaluations on regularly scheduled intervals may distort this system by continuing to use outdated and inaccurate property values in the calculation" of tax bills.

The governor recalled that "in 2001, the General Assembly voted to take over the finances of the city of Waterbury, at least in part because it had not conducted a revaluation in over 20 years. Waterbury's experience demonstrates that prolonging the revaluation period only exacerbates fiscal problems and delays that which is inevitable."

For further information on the revaluations, contact Tiffany K. Spinella, Esq. at (860) 424-4360 or tspinella@pullcom.com.

Greenwich Appoints New Assessor

Among Connecticut's 169 cities and towns, the "gold coast" community of Greenwich, contiguous to New York, is perhaps the wealthiest community in Connecticut, if not in the country, and enjoys the lowest effective tax rate – well under 1 percent. By comparison, the effective tax rate for commercial real estate in the city of Hartford exceeds 5 percent!

In the midst of completing its budget for the July 1, 2012 fiscal year, Greenwich also appointed a new assessor. Her qualifications are unique in that she previously worked as an assessor in Portsmouth, New Hampshire and for a few small communities in Litchfield County. Most interestingly, Lauren Elliott is an attorney with experience in estate planning.

Her broad and deep qualifications made the difference in her selection for the position, a representative of the Greenwich Board of Estimate and Taxation commented, because the board was looking for "someone who could manage a multitude of property valuation appeals that wind up in court."

In Valuation, Sometimes The Devil is in the Details

The resolution of the commercial real estate tax appeal of a strip shopping center in East Haven, turned in large measure upon an error initially made by the assessor in determining square footage.

The property owner challenged the assessments on the Town's Grand Lists of October 1, 2008, 2009 and 2010. Although the center had been valued at slightly less than $5.2 million in 2008 and 2009, the assessor recalculated its square footage in late 2010 and increased the market value to $5.7 million. The square footage as recalculated by the assessor increased from 50,683 square feet to 54,573 square feet after measurement, and the assessment increased accordingly.

While aware of the assessor's correction, the owner's appraiser "premised his estimate (of value) on 50,683 square feet as (previously) recorded on the assessor's cards . . ."

A significant issue in the case was whether or not the valuation increase resulting from the assessor's updated measurements in the midst of East Haven's revaluation cycle was acceptable, or whether it was "an impermissible interim revaluation of the property," as the property owner contended.

Having reached "a specific factual finding that the assessor made a mistake in determining the square footage of the shopping center in 2006," Judge Linda K. Lager had no difficulty in deciding that he had the authority under the applicable statute to increase his valuation to reflect the size accurately. The court referred to the Connecticut

Appellate Court's 2002 ruling in *Matzul v. Montville* which upheld a similar action by the Montville assessor.

While it is unclear why the property owner's appraiser disregarded the assessor's correction of his earlier error, the court's decision here is well in keeping with other Connecticut rulings holding that the physical characteristics of a property involved in a tax appeal can be corrected at any time, even in the process of appraising it for purposes of a tax appeal, as the Supreme Court ruled in 1997 in *Konover v. West Hartford*.

East Haven Associates v. Town of East Haven, Superior Court, Judicial District of New Haven, Docket No. CV-09-4036396 (May 12, 2011).

For further information please feel free to contact Gregory F. Servodidio, Esq. at (860) 424-4332or gservodidio@pullcom.com.

National Developments Matched to Local Market

The relationship between national economic and macroeconomic data and local property markets was drawn into sharp perspective by Rocco Quaresima of FRQ Property Advisors in Hartford recently.

In an article published in the April 20-26 edition of *New England Real Estate Journal,* Mr. Quaresima reviewed the recent history of the automobile industry, the impact on auto sales of the severe economic downturn of 2007-2009 and how rising gasoline prices may or may not affect vehicle sales volume.

Mr. Quaresima then examined how the "decline and recovery of the automobile industry" has been reflected in the market for automobile dealership properties. While certain closed dealerships have been purchased by more durable automobile businesses for expansion purposes, others have been converted from new car facilities to used vehicle outlets. Supply appears to outpace demand.

The strengthened market posture of more viable franchises has, enabled established dealers to purchase "older, less functional properties" at very competitive prices, Mr. Quaresima reports.

United States Supreme Court Weighs in on Assessment Refund Issue

The difficulty of proving that a state's tax system is unconstitutional was recently highlighted by the U.S. Supreme Court.

The city of Indianapolis paid for sewer use by apportioning the cost among abutting lots. After the initial assessment was created, the cost would be divided among the number of affected lots and adjustments to reflect size and configuration would be made. When the project was completed, a final assessment would be levied on each lot. The key here was that lot owners could pay in a lump sum or in installments.

After a particular sewer extension project was completed, 38 of the 180 homeowners affected by the project chose to make a lump sum payment; the remainder opted for installments. The next year, the lot apportionment assessment concept was abandoned and Indianapolis adopted a different payment plan which was based on bond project financing. The new method lowered the liability of each individual lot owner to pay a portion of the project cost. When the city adopted the new financing plan, it also forgave all installments still owed by lot owners under the old format. Unfortunately, those homeowners who had made lump sum payments did not receive refunds.

Understandably upset by not having received the same financial consideration that the installment payors received, the lump sum payors brought suit but ultimately lost their case in the Indiana Supreme Court. That court ruled that the City had a rational basis for forgiving the remaining installment payments in order to reduce its administrative costs and providing financial relief to the installment payment homeowners, among other financial and budgeting reasons.

The United States Supreme Court concluded that as long as "there is any reasonably conceivable state of facts which could provide a rational basis for the decision" made by Indianapolis, it was not constitutionally infirm. Terminating the installment payors' obligations to make their remaining installments permitted the City to avoid "maintaining an administrative system for years . . . to collect debts arising out of (many different construction projects) involving monthly payments as low as $25 per household . . . ."

Even though financial hardship for certain installment payors was discussed by Indianapolis authorities, the Supreme Court dismissed the appellants' claim as irrelevant because "the City's administrative concerns are sufficient to show a rational basis for its" action.

The Court's ruling was signed by Justices Breyer, Kennedy, Thomas, Ginsberg, Sotomayor and Kagan. Chief Justice Roberts's dissenting opinion was joined by Justices Scalia and Alito.

Armour v. Indianapolis (Docket No. 11-161, June 4, 2012).

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