Property Valuation Topics

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2006 Revaluations Loom

Thirty-six of Connecticut's 169 towns are scheduled to conduct community wide revaluations of all real estate within their boundaries this fall. Connecticut determines property value for *ad valorem* purposes as of October 1; the fiscal year for tax payments begins the following July 1.

Among the larger municipalities scheduled to revalue as of October 1, 2006, are East Hartford, East Haven, Groton, Hartford, Manchester, Meriden, New Haven, Orange, Stamford and West Hartford.

Property owners can expect to be contacted by the revaluation company performing the work, most likely in September or October.

Please feel free to contact any of the members of Pullman & Comley's Property Valuation Department for assistance in dealing with the revaluation of your property. In many cases, the last revaluation took place five years ago.

Assembled Economic Unit Doctrine Validated?

In a recent article, we discussed the Appellate Court's decision in *City of New London v. Foss and Bourke, Inc.*, an appeal from a condemnation award. Calculation of the value of the owner's property was not the issue; the method of calculation was in contention.

Relying on a 1970 Pennsylvania Supreme Court decision, which ruled that when a condemnee "cannot maintain his economic position by relocating all machinery, equipment and fixtures which are vital to the (condemnee's) economic unit and a permanent installation therein will be part of the real estate of the condemned property. . . ," Foss and Bourke sought to increase the award paid to it by the New London Development Corporation by adding its machinery and equipment to the calculation of its real estate value.

> **"Among other matters, the Supreme Court pointed out that the trial court failed to conclude whether or not there was another building within a reasonable distance to which Foss and Bourke could relocate."**

The trial court rejected the attempt to apply the so-called assembled enterprise unit (AEU) rule and employed "a traditional fixture analysis" in deciding Foss and Bourke's appeal.

The Appellate Court expressed unwillingness to consider the AEU rule because no Connecticut court had ever adopted it and sustained the trial court.

On appeal certification to our court of last resort,

the sole issue which the Supreme Court expressed a willingness to review was whether the AEU doctrine was applicable to the valuation of Foss and Bourke's property in the eminent domain case.

After considering the appellate record more completely, however, the Supreme Court changed its mind and decided to dismiss the appeal because the record made in the trial court did not "support application" (of the AEU rule). Among other matters, the Supreme Court pointed out that the trial court failed to conclude whether or not there was another building within a reasonable distance to which Foss and Bourke could relocate.

As a result, the Supreme Court turned aside Foss and Bourke's appeal while unequivocally agreeing "to resolve the question of whether the (AEU) doctrine is applicable in Connecticut" if and when a proper case comes up on appeal.

Supreme Court of Connecticut, December 27, 2005.

Please feel free to contact Marjorie S. Wilder in our Hartford office, at 860-424-4303 or by email to mwilder@pullcom.com, for further information about the AEU doctrine.

Shore Owner's Property Tax Appeal Rejected

Mason's Island is a beautiful, upscale enclave located off the coast of and part of the town of Stonington, which is itself an extremely attractive shoreline community on Connecticut's Long Island Sound. Sixty-four owners of high-ticket properties on Mason's Island filed appeals from Stonington's last community wide revaluation.

Daniel H. VanWinkle, one plaintiff, owns a 4,000 square foot home with 141 feet of water frontage valued by the Stonington Assessor at over $1,800,000. No doubt, in an attempt to grapple with market data which supported the assessor's decision, Mr. VanWinkle argued that waterfront properties should be categorized and assessed differently than inland properties.

> **"Some observers would maintain that if the Connecticut General Assembly were to agree to this sort of request, the reclassification itself might be unconstitutional under conventional *ad valorem* legal categories."**

The escalation of waterfront values along Connecticut's coast has caused many owners great consternation as their property tax burdens have increased exponentially. Frequently used only as vacation homes and rarely drawing on any local services other than police, fire, water and sewer, if available, waterfront owners have looked for ways to reduce their tax burdens which, until fairly recently, have been rather modest. Mr. VanWinkle urged the trial court to consider this and other factors in his appeal.

Notwithstanding, a Superior Court judge rejected Mr. VanWinkle's efforts to amend Stonington's assessment practices concluding that this could not be accomplished under Connecticut law. Some observers would maintain that if the Connecticut General Assembly were to agree to this sort of request, the reclassification itself might be

unconstitutional under conventional *ad valorem* legal categories.

Laura A. Bellotti (860-424-4309 or lbellotti@pullcom.com) or Ericka R. Lenz (860-424-4357 or elenz@pullcom.com) in our Hartford office can reply to questions about the issues in this case.

Exemption of Connecticut College under Attack

To put idle facilities to good use during summer academic doldrums, Connecticut College rented its dormitories to Polish students working at Mohegan Sun Casino for $10 a day. After learning about this, New London City Manager Thomas Brown discovered that the College also rented its ice skating rink to the Southeastern Connecticut Home Show for which it received between $15,000 to $20,000 annually. Indeed, according to New London's counsel, "(i)n some years, (the) College's 'unrelated business income' has amounted to as much as $700,000."

> **"The College asserts that all of its property is exempt as long as it is 'reasonably necessary' for educational use and is used primarily for educational purpose..."**

Concluding that the college had forfeited the rink's tax exemption, New London added the rink to its grand list and is now litigating the College's effort to remove it in a potentially precedent-establishing litigation pending in the New London Judicial District.

A summary judgment motion may well determine the outcome of this case. While the College asserts that all of its property is exempt as long as it is "reasonably necessary" for educational use and is used primarily for educational purpose, the city argues that an exemption may not be maintained where a property "has been used by unaffiliated third parties for purposes unrelated to the educational mission of the school for a fee."

Connecticut College's counsel has been quoted stating that "this is the most ridiculous piece of litigation I have ever seen. . . ." Some observers are not so certain.

Property Valuation Topics will report on this very important case again – the trial court's decision is expected later this year.

Gregory F. Servodidio (860-424-4332 or gservodidio@pullcom.com) or Elliott B. Pollack (860-424-4340 or ebpollack@pullcom.com) in our Hartford office are familiar with the issues involved in this case.

Attorney Notes

Department Chairman **Elliott B. Pollack** will address recent property valuation developments at the 2006 University of Connecticut Commercial Real Estate Conference to be held at the Farmington Marriott on November 9. For further information, please contact the University of Connecticut at 860-486-3227.