

Property Valuation Topics

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Land Value Taxation Program Moves Forward

As we reported in the fall issue of *Property Valuation Topics*, Connecticut Public Act No. 09-236 calls for the Secretary of the Office of Policy and Management (OPM) to establish a pilot land value taxation program. By virtue of the limitations in the law, New London is the only municipality eligible for the program.

We were advised that the Office of Policy and Management forwarded an application to the New London city manager on July 30, 2009. The city submitted its application thereafter and on September 29, 2009, OPM approved it.

The next step in the process was for the New London city manager to "appoint a committee consisting of relevant taxpayers and stakeholders" to prepare an implementation plan that would develop an appropriate process, designate geographic areas of the city where the plan would be implemented and identify any legal or administrative issues involved.

Once the plan is developed, the city manager, assessor and tax collector must submit comments. Thereafter, New London city council's approval is required. Once this approval is obtained, the plan must be submitted to the Planning and Development and Finance, Revenue and Bonding committees of the General Assembly.

In October, the New London city manager appointed a nine-member Land Value Taxation Pilot Committee which has held several meetings to date.

The implementation plan was submitted to the General Assembly and is currently being reviewed. The next issue of *Property Valuation Topics* will provide an update on this process.

For more information, please contact Laura A. Bellotti at (860) 424-4309 or at lbellotti@pullcom.com.

The Assessor and Freedom of Information

Candida and Phillip Deleppo asked the Harwinton assessor for "recent comps you used to justify the new 100% FMV for lot #5 for the neighborhood which increased the value from \$9,350 to \$37,500...."

When the assessor failed to comply, Mr. and Mrs. Deleppo appealed to the Connecticut Freedom of Information Commission (FOIC) requesting an order that the data be turned over to them.

While the assessor initially seemed to assert that the Deleppos' request required her to produce every real estate transaction and that she "could not simply provide them with those sales comparisons relied on (by her) in increasing the assessment for lot 5," a different answer was delivered at the administrative hearing held on their complaint.

On cross examination at the FOIC hearing, the assessor conceded that "there were only approximately 20 pages of records in (her) possession that she believed were actually responsive" to the Deleppos' request and that she had not yet provided the records to them.

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This is the first FOI decision, to your editor's knowledge, which concludes that work product comprised of an assessor's collected comparable sales data, apparently culled from the town's overall record of real estate sales transactions, qualifies as a "public record" and, therefore, must be furnished to any member of the public.

Connecticut Freedom of Information Commission,
Docket No. FIC 2009-143, October 14, 2009.

For further information, please contact Elliott B. Pollack at 860.424.4340 or ebpollack@pullcom.com

Tax Exemptions Strictly Apply

While Connecticut law is generous in granting ad valorem tax exemptions to religious entities, the exemption is not as open ended as some may believe. A recent decision by Judge Bethany J. Alvord, sitting in the Waterbury Superior Court, confirms this point.

The Hellenic Orthodox Community, Inc., a Greek Orthodox Church, owns four contiguous unimproved wooded parcels in Waterbury consisting of 25 acres, which were acquired by gift.

Although originally granted an exemption by the Waterbury assessor, the exemption was revoked effective with the October 1, 2006 Grand List following a telephone call from a local newspaper reporter and a site visit by the assessor.

The properties are not suitable for development. While the church has no plans for development, a 12 foot by 7 foot cross was erected there in 2007 and blessed by a church pastor. Once a year, a church youth group spends a few hours hiking the properties and stops to pray near the cross. This is the only activity of any sort which takes place on the properties.

The church attempted to invoke a section of Connecticut's exemption statutes which exempts from local taxation recreational properties owned by religious organizations used for religious purposes.

Judge Alvord ruled that the church's very limited use of these properties – a three-hour or so prayer walk every year – were not legally sufficient to enable the church to trump the requirement of another Connecticut statute that unimproved property may not be accorded an exemption in the absence of any plans to develop the property.

"In this case . . ." the court ruled, "It is clear . . . that no construction is in progress or planned that would qualify for a tax exemption under (the relevant statute)." While not commenting on the "importance or symbolic nature of the cross," the cross alone "does not entitle the property to an exemption."

Hellenic Orthodox Community, Inc. v. City of Waterbury, Docket No. CV-07-4013379 S (April 16, 2009).

For further information, please contact Gregory Servodidio at 860.424.4332 or gservodidio@pullcom.com.

Need for Frequent Revaluations Stressed

Larry Clark, CAE, is director of professional development for the International Association of Assessing Officers. He offers some very worthwhile observations in the January 2010 issue of *Fair & Equitable*, the monthly publication of IAAO.

Most appropriate to the concerns of commercial property owners who are represented by Pullman & Comley's Property Valuation Department, Mr. Clark stresses the importance of frequent revaluations. He stresses the increased confidence property owners

develop in a locality's assessing activities when tax rate changes "can be more gradual and consistent with the current economic circumstances...It is unwise to conduct revaluations infrequently," he points out, because, as we know so well in Connecticut, the infrequent revaluation "heightens taxpayer anxiety in the year values are updated." He justifies this conclusion by noting that changes in values in municipalities which revalue infrequently are "virtually always inconsistent with . . . year to year change[s] in the market."

Noting that the property tax is based on the market value of the property being taxed, Mr. Clark observes that it is very difficult to achieve this goal unless the assessor's values are current. "Otherwise," he warns, "taxes are based on values that are greater or less than market value."

Huge Apartment Deal Craters

After an investment group organized by Tishman Speyer Properties purchased the 11,000-unit Peter Cooper Village and Stuyvesant Town apartment complexes in Manhattan in 2006 for \$5.4 billion, commentators questioned the wisdom of the deal. Even in the frothy high selling price/low cap rate environment of those days, barely more than three years ago, the price TSP paid seemed staggering.

Critics proved correct when on January 25, 2010, the owners announced they were walking away from the project and turning it back to the lenders who had advanced \$4.4 billion to finance the transaction. According to the article by Ling Ling Wei and Mike Spector in the January 25 online *Wall Street Journal*, the properties may be worth only \$1.8 billion now.

The gilt-edged group of investors that fronted the \$1 billion equity in the property, including Calpers Capital and the Church of England, may be wiped out. Hartford Financial Services Group, a member of the lender group, may lose all or most of its

investment as well.

"The troubles experienced by landlords nationwide," the reporters observe, "are stoking fears among regulators and bankers that turmoil in commercial real estate may derail the hoped-for economic recovery (of the United States)."

Tinsel Town to Connecticut?

The *Hartford Courant* and *Associated Press* reported in October that Connecticut Studios, LLC has acquired all the land necessary to develop a new movie and television studio in South Windsor.

A 20-acre parcel jointly owned by the town and state of Connecticut was transferred to a developer. This property and a 40-acre parcel already committed to the project will support the new development. According to Hal Katersky, CEO of Connecticut Studios, construction plans call for eight sound stages, 100,000 square feet of offices and 100,000 square feet of space for set building.

The project is expected to commence in the second quarter of 2010.

Attorney Notes

On January 15, 2010, department members **Laura A. Bellotti**, **Elliott B. Pollack** and **Gregory F. Servodidio** presented a three-hour program before the Connecticut Chapter of the Appraisal Institute members on eminent domain law and practice. The Connecticut Department of Transportation's right of way administrator, Richard Allen, was also a member of the panel.

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