

Attorneys:

- **Laura Bellotti Cardillo**
lcardillo@pullcom.com
413.314.6166
- **Michael J. Marafito**
mmarafito@pullcom.com
860.424.4360
- **Elliott B. Pollack**
ebpollack@pullcom.com
860.424.4340
- **Gregory F. Servodidio, CRE**
gservodidio@pullcom.com
860.424.4332

Summer 2017

In This Summer 2017 Issue:

- Declaratory Judgment Not the Correct Remedy
- Easement Can Impact Value
- When Real Estate and Culture Mix!
- Multifamily Real Estate Bubble Ready to Pop?
- Property Taxes in Texas

Declaratory Judgment Not the Correct Remedy

Danping Li sued the Town of Woodbury with regard to the assessments of three properties she owned in that community. One of the counts of her complaint seeking a declaratory judgment was entitled “Woodbury’s rigged tax appeal process violated the due process clause of the 14th amendment of the United States Constitution.” The Town struck back, stating that a claim for a declaratory judgment was improper since the taxpayer had perfectly valid recourse through the standard tax appeal process.

Not surprisingly, sitting in the Judicial District of Waterbury, a Superior Court had little difficulty in disposing of this portion of her lawsuit. It ruled that a declaratory judgment would add nothing to her tax appeal claims since she was asserting only that her assessment was excessive under the guise of a constitutional argument.

The Court’s ruling underscores the wisdom of not straying from conventional assessment appeal remedies unless, which was hardly the case here, there is reason to do so.

Danping Li v. Town of Woodbury, Docket No. CV-16-5017752 (January 6, 2017)

Summer 2017

Laura B. Cardillo or Michael J. Marafito can be reached at lcardillo@pullcom.com or 860-424-4309 or mmarafito@pullcom.com or 860-424-4360 for questions about this case.

Easement Can Impact Value

It is not often that a residential tax appeal can offer a helpful nugget of information for those concerned with commercial valuations. However, this is the case in a recent New Haven tax appeal decided by Judge Steven Ecker.

At issue was the value of an upscale home in Branford as to which the court wryly observed that the appraisers “show(ed)” partiality . . . in favor of the party who commissioned them.

In the course of reducing the assessor’s market value by about 10 percent, the court noted that the Town’s appraiser failed to “adequately account” for an easement over the property which gave the owner of an adjacent home vehicular entry over the subject residence’s land to a tidal creek providing access to the Long Island Sound.

The decision points to the importance of understanding title to a property whose value is being litigated and in accurately gauging the impact of any rights reserved to others.

Lovejoy Family, LLC v. Town of Branford, Docket Number CV-15-6054381-S, May 1, 2017.

Gregory F. Servodidio can respond to questions about this case. He can be reached at gservodidio@pullcom.com or 860-424-4332.

When Real Estate and Culture Mix!

Hartford’s Bushnell Center for the Performing Arts, a cultural mainstay in Connecticut’s capital city for almost 90 years, has seen its formerly residential surroundings dissolve around it. As Connecticut’s workforce grew, state and private office buildings proliferated. Suburban government commuters required free parking, resulting in the acquisition of acres of properties which were demolished to provide oceans of parking lots that now characterize the Bushnell’s neighborhood.

As so often happens in America, only when a problem reaches its critical point do government and private interests step in. According to the reporting of Gregory Seay in the *Hartford Business Journal* of February 28, the arts center is now in the process of planning Bushnell Square, a “multi-million-dollar vision” that would eventually transform adjacent state-owned parking lots into high-rise apartments, condos, office and retail space. Mr. Seay advises that the Center and the State of Connecticut, under the aegis of the Capital Region Development Authority, will create a development partnership to move the project forward.

Summer 2017

“This project is kind of a return to first principles,” said a consultant to the project. “The Bushnell cannot move,” he wryly notes, “but the rest of city around it can change.”

While the cost of Bushnell Square is not yet known, the initiative appears to have some steam as a result of infrastructure improvements in the area and the scheduled opening of the University of Connecticut’s new downtown Hartford campus a few blocks away, among other developments.

Multifamily Real Estate Bubble Ready to Pop?

Eric Rosengren, President of the Boston Federal Reserve Bank, expressed concern about the rapid rise in the selling prices of multifamily properties which, according to Jonathan Spicers’s note in *Reuters Business News* of March 21, “may signal financial instabilities which (rising) interest rates may not be able to contain.”

In remarks delivered to a banking supervision conference, the Boston Fed President expressed concern that inflated apartment values could “amplify whatever problems emerge when we at some point face an economic downturn.”

The emphasis on apartment prices is quite appropriate insofar as the Connecticut multifamily market is concerned. Increases in unit selling prices over the last several years have driven cap rates to anemic levels, raising concerns about the long-term viability of some of these investments as well as unexpected exposure to increased property tax assessments based on transactions over the last 24-36 months.

A contrary view was expressed by Rebecca Kavanagh in the Q1 2017 issue of *Valuation*, an Appraisal Institute publication. Dwelling on certain markets, such as Seattle, which have enjoyed strong demand for apartments due to a red-hot housing market (with “starter homes” selling at around \$1 million near the central business district), Ms. Kavanagh, a freelance Detroit based writer, nevertheless closes her article with a note from a CB Richard Ellis executive projecting softness for the remainder of 2017 with a return to “balance” in 2018. At the same time, she appears to minimize warnings such as of a Florida MAI who projects a “cool-down into 2018 if income-to-rent ratios are not able to support the underwriting of apartment complexes.”

PTVT readers can decide for themselves whose forecasting is more credible.

Elliott B. Pollack is litigating a number of tax appeals of multifamily properties currently. He can be reached at ebpollack@pullcom.com or 860-424-4340.

Summer 2017

Property Taxes in Texas

The Texas Senate approved legislation which would send a municipality's decision to increase taxes by more than 5 percent to an automatic vote of residents. Senate Bill 2, adopted on March 22, 2017, reduces the current cap from 8 percent. The issue of voter input on property tax rate increases – not assessments – in Connecticut is addressed on a town-by-town basis.

© 2017 Pullman & Comley, LLC. All Rights Reserved.

This publication is intended for educational and informational purposes only. Readers are advised to seek appropriate professional consultation before acting on any matters in this update. This report may be considered attorney advertising. To be removed from our mailing list, please email unsubscribe@pullcom.com with "Unsubscribe" in the subject line. Prior results do not guarantee a similar outcome.