

Property Valuation Topics

Volume XIII / Issue 5
Summer 2011

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Read the Appraisal Report Carefully

The attorneys in the Property Valuation Department of Pullman & Comley esteem and respect the work of the expert real estate appraisers with whom they interact. Every page of their reports, even the photographs, must be read to carefully achieve a complete understanding of the appraiser's opinion and the basis for it.

When commissioning an appraisal, it is important to understand what you have asked the appraiser to do, as the nature of the assignment, i.e., market value/investment value/leased fee/fee simple will have an important bearing on his/her conclusion.

These lessons were borne out in a hotly contested divorce which reached the Connecticut Appellate Court last year. One of the key issues in the case was the value of the divorcing husband's assets. To reach an understanding of the worth of his shareholdings in several corporations with substantial real estate holdings, the plaintiff wife retained a real estate appraiser "to value the properties owned by the corporations ... but, significantly, not to value the defendant's interest in these entities," observed Judge Thomas Bishop.

The appraiser made it clear that while he was estimating the aggregate fair market value of the properties owned by the corporations "[i]t is likely that this is only the first issue to be addressed as there are issues relating to outstanding debt and the valuation of the stock which is beyond my expertise." He offered the same caveats during his testimony.

The plaintiff's evidence, for some reason, was limited to the valuation of assets owned by entities in which her soon to be former husband owned stock, without taking the next and very important step of determining the value of the stockholdings themselves. Notwithstanding this near total failure of proof, the trial court proceeded to render awards on the basis of the appraiser's testimony.

On appeal, while recognizing that appellate courts are loath to overturn a court's marriage dissolution orders,

where a "court employs a patently erroneous methodology, its results can not stand," Judge Bishop ruled.

One might speculate that had the appraisal been read more carefully before the case went to trial, additional valuation experts would have been retained by the plaintiff!

Brooks v. Brooks, Connecticut Appellate Court, Docket AC 30140 (June 1, 2010).

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The End of an Era

After more than 20 years, the City of Hartford will conclude its "experimental" one- to four-family residence property tax subsidy.

In order to encourage single and small multiple family home ownership in the city, Hartford was able to prevail upon the Connecticut General Assembly in 1989 to pass legislation which brought residential property taxes down by approximately two thirds from what they would be otherwise. The price of this subsidy was a surcharge on commercial property owners of 15 percent, thereby further exacerbating the cost of owning commercial real estate in Hartford and depressing the value of these assets.

Commencing with the October 1, 2011 assessment year, buildings containing four or more dwelling units will be assessed at 50 percent of market value — increasing gradually to 70 percent, the customary rate, as of October 1, 2015. Commencing also as of October 1, 2011, properties consisting of three or fewer dwelling units shall be assessed in such a fashion that their tax burden shall not increase by more than 3.5 percent over the amount of taxes which were paid with respect to the October 1, 2010 assessment year. Thereafter, one to three unit residential assessments shall increase pursuant to a complicated formula linked to the Consumer Price Index and a series of caps.

A special provision permitting 1 percent of the total number of registered voters to petition for a referendum on a budget which results in an increase of more than 2.6 percent over the prior year's tax levy was also enacted.

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Land Value Taxation in the General Assembly

Senator Martin Looney and Representative Jason Rojas introduced legislation in the 2011 Connecticut General Assembly which would have established a pilot program in three communities calling for different tax (mil) rates for unimproved land or, with respect to improved land, land exclusive of buildings.

The pilot program would have been limited to communities with populations of 26,000 or less.

It proposed the same citizen study group format that was included in the differential land value taxation program that was adopted several years ago but ultimately did not go anywhere.

Unfortunately, this year's effort to determine whether differential tax rates might have a salutary effect on reducing urban building demolitions to create surface parking lots died in committee on January 14, 2011.

Regional Revaluation

One of the reasons Connecticut's 169 municipalities do not generally choose to revalue real estate within their precincts more frequently than every five years as required by state law is the cost of doing so. This argument has helped to discourage the General Assembly from mandating more frequent revaluations.

As a result, it comes as a refreshing and indeed slightly surprising development to learn that rural towns in eastern Connecticut decided to join forces and budgets to

conduct their periodic revaluations together. The towns of Ashford, Brooklyn, Canterbury, Eastford, Sterling, Thompson, Woodstock (and Sprague in all likelihood) have contracted with Tyler Technologies to accomplish their revaluation responsibilities.

Northeastern Connecticut Council of Governments' Executive Director John Filchak comments in the *Tolland Patch*, an e-newspaper: "The monies saved for our towns and the efficiencies gained here are impressive and are, we believe, a model for other regions and states." One community's elected official estimates a savings of 25 percent from participating in this program.

It remains to be seen whether this approach can translate to the more urban communities in the state that have substantial numbers of commercial parcels.

For further information about this interesting development, please contact Tiffany K. Spinella, Esq., 860.424.4360 or tspinella@pullcom.com

Construction in Progress (CIP) Case Settled

In a recent edition of *Property Valuation Topics*, we reported on a somewhat odd decision in which a judge trial referee held that the Town of Guilford could not assess CIP under what appears to have been a strained interpretation of the applicable statute. The parties' settlement, which your editor recently learned about, leaves the issue hanging out there with other cases likely to be brought unless a statutory change is effected.

While the editors of *Property Valuation Topics* do not wish to see the categories of properties eligible for assessment increased on a scatter-shot basis, we did find the argument that CIP was exempt, at least as articulated in the *Evans* case, somewhat difficult to follow.

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