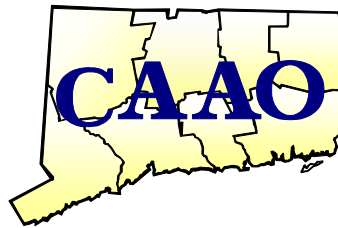


Handbook for  
**Connecticut Boards of Assessment Appeals**

A guide to property tax administration for  
Connecticut's municipal boards of assessment appeals



Revised edition 2009

Connecticut Association of Assessing Officers



## **PREFACE**

This handbook is designed to help members of Boards of Assessment Appeals understand the local property tax, property tax assessment and administration, and their duties and responsibilities. It is not intended to be a substitute for the General Statutes, but rather to be used in conjunction with them.

The book is divided into two sections. The first section describes the nature of assessment review, and its importance in the administration of the property tax. Section two relates to current assessment review practices in Connecticut, particularly those concerning the organization and operations of boards of assessment appeals. The appendices provide additional information on the boards, including a digest of major court cases relating to property assessment review. While every effort has been made to make the publication as complete and accurate as possible, the Connecticut Association of Assessing Officers assumes no responsibility for any errors of omission or commission.

This edition marks the seventh revision of the handbook and the first time the Connecticut Association has revised and produced the handbook. Previous editions were compiled by University of Connecticut Professors Rosaline Levenson, Edward T. Dowling, George Hill, and Edward Sembor.



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## CHAPTER 1

### MUNICIPAL BOARDS AS APPEAL AGENCIES

Boards of Assessment appeals are among the oldest, local government agencies in Connecticut. Their history, in fact, dates back to the colonial period.

Created by state law, the Boards hold important powers affecting both the municipality and the taxpayer. Yet, paradoxically, they constitute one of the lesser-known municipal agencies. Most taxpayers are aware of the office of assessor or tax collector in their communities. Few, however, know anything about the Board of Assessment Appeals until they have a disagreement about their property valuation. Board members themselves may know little about the office prior to their elections or appointments, and frequently learn about their functions and duties only after assuming office.

Exactly what, then, are Boards of Assessment Appeals? How did they develop? What is their function in local government?

#### THE BOARD OF ASSESSMENT APPEALS DEFINED

The Board of Assessment Appeals is an official municipal agency. It is designed to serve as an appeal body for taxpayers who believe that town or city assessors erred in the valuation of their properties or erroneously denied them exemptions.

It is important to note that the board is not an assessing agency. It does not value taxable property—that is the function of the assessors. Its purpose is best explained by the word “review,” which was formerly in their title: It is a review body, and as such serves independently of assessors.

The Board is the first level of appeal from the actions of the assessors. Its decisions are binding for one year and may be changed by the assessor on the subsequent Grand List when a reduction of increase was not equitably instituted.

“As noted, the structure of the statutes clearly demonstrates that an assessor and a board of tax review are independent authorities, with no right of action binding, in each instance, for a period of more than one year. If the legislature had intended to grant to the board the power to create binding precedent, it

would have done so.” Mosswood Condominium Association vs. Board of Tax Review of the Town of Fairfield (June 11, 1980)<sup>1</sup>

In most cases, it operates as an intermediary level between the assessors and the courts.

Composed of persons who generally are elected, the Boards enable taxpayers to be heard by their peers at no expense. No fees are charged for the appeal process. Furthermore, taxpayers do not have to be represented by counsel.

There are 169 Boards of Assessment Appeals in Connecticut, one in each town, and in each consolidated town and city. Most boards have three members. Local units of government located within a town, such as unconsolidated cities, boroughs, and special districts, do not have Boards of Assessment Appeals. In these entities, the town assessor values all taxable property, while the town Board of Assessment Appeals handles all appeals.

#### HISTORICAL DEVELOPMENT

The concept of a Board of Assessment Appeals—formerly titled “Boards of Tax Review”—originated in Connecticut with the enactment of the Code of 1650. This provided the legal basis of taxation in Connecticut). Within the Code, under the section entitled, ‘Rates,’ compiled by Silas Andrus, the following is found (in its original language):

And it is further ordered, That the commissioners for the severall townes upon this river, shall yearely meet upon the third Thursday in the sixth month at Hartford; and the commissioners of the townes for Ffairfield and Stratford, shall mett the same day in one of those townes, and bring with them, fairely written, the just number of males listed as aforesaid, the assessment of estates made in their severall townes, according to the rules and directions in this present order expressed. And the said commissioners being so assembled, shall duely and carefully examine all the said lists and assessments of the severall townes, and shall correct and perfect the same, according to the true intent of this order, and the same so perfected, they shall transmit under their hands, to the generall courte, the second Thursday in September, and

then directions shall be given to the Treasurer for gathering of the said rate, and everyone shall pay their rate to the constable of the town where it shall be assessed...

*From: The Blue Laws, Compiled by Silas Andrus. 1999, Biblopol Press, UConn Co-op, Storrs, CT.*

At that time, municipal assessments consisted of three kinds of taxes: The property tax; a poll tax on males over 16 years of age; and a "faculty" tax on artisans and traders, the forerunner of today's personal income tax.

The poor were relieved from paying these taxes. At first, the selectmen held the power of abatement; in time, a special agency, called the board of relief, was established in each town to take such appeals. These boards laid down the roots for the Boards of Assessment Appeals, although their cases initially dealt only with the poor and others unable to pay their taxes. They were eventually expanded to hear appeals from all taxpayers, which grew out of the tradition that taxpayers have the right to petition their government if they feel taxes are too high or unjustly levied.

Since their formation, the boards of relief were composed of elected citizens. This underscored an American tradition: That taxpayers are entitled to appeal their assessments not to a government official, but to one of their own peers. It reflected, as well, the colonists' mistrust of government officials. The English constitutional theory that "The king (or his representatives) can do no wrong," did not become a part of the common law in the United States; in fact, the colonists believed that relief from unjust taxes could be made impartially only by a disinterested person elected for the sole purpose of hearing appeals.

There was another important reason for the election of the boards of relief. In the colonial period and the following century, when the United States was predominantly a rural nation, real property consisted chiefly of land, farms, farm equipment, cattle, livestock, homes, commercial buildings, factories, and small stores and businesses. Property at that time did not change hands very frequently – often it remained in the same family for generations. It was also relatively easy to classify and evaluate. Further, the primary qualifications for assessors and boards of relief were personal integrity and dedication to duty, rather than specialized knowledge. Based on these criteria, election was seen as the best method of selection.

By the end of the 19<sup>th</sup> century, these conditions changed. Industrialization accelerated, and the United States entered the urban age, with its corresponding changes in forms of property and new demands upon the boards of relief. Because of the nature of their duties, the boards' names were changed in the early 1940s to "Board of Tax Review." In 1995 the General Assembly, changed the name to "Board of Assessment Appeals." This latest change reflects the shift from granting tax relief to reviewing assessment appeals.

The poll tax on males and the faculty tax on artisans and traders have long been abolished in the United States. The property tax, on the other hand, is still of major importance in Connecticut's municipalities, and handling disputes over property assessments is the major role of the Boards of Assessment Appeals today. From affording tax relief to poor colonists, the boards in modern times have become essentially review agencies, hearing appeals and making decisions in cases involving property tax assessments.



## CHAPTER 2

### ASSESSMENT REVIEW IN CONNECTICUT

Assessment review relates to procedures that ensure property valuations are just and equitable. An extended process, it begins with the assessor and ends with the Board of Assessment Appeals. This process is of prime concern to all Connecticut municipalities, due to their dependence upon the revenues raised by property taxes.

### IMPORTANCE OF THE PROPERTY TAX

Connecticut ranked eighth in the nation for its reliance upon the property tax.<sup>2</sup> In fiscal year 2003-2004 the property tax brought in \$6.642 billion, out of a total of \$9.914 billion received in the state's 169 towns and cities from all sources.<sup>3</sup>

With the property tax such a critical source of revenue, it places an unusually large burden upon the Boards of Assessment Appeals. Few property owners have the funds to contest an assessor's decision in court, and consequently, rely upon their local boards to resolve their grievances.

### ASSESSMENT PROCESS

The assessment process takes place before the board of assessment appeals sits as a review body. This process, repeated annually, starts when the municipal assessor or board of assessors prepares an official listing of all taxable property in the community. Known as the Grand List, it represents the assessed valuation of all taxable and tax-exempt property. The Net Grand List, which is the total value after deductions for exemptions, becomes the municipality's tax base.

Two factors determine the tax rate on taxable property. The first is the tax base, or the total assessed valuation of the Net Grand List. The second is the grand levy, the amount of money, which must be raised by the property tax to meet municipal expenses during the ensuing fiscal year, as established by the municipality's legislative body.

To arrive at the tax rate, the grand levy is divided by the current tax base. This may be expressed by the following formula.<sup>4</sup>

$$\frac{\text{Grand levy}}{\text{Net Grand List}} = \text{Tax Rate}$$

In Connecticut, the tax rate is generally expressed in mills, or thousandths of a dollar. The rate indicates the grand levy as a percent of the Grand List. The taxpayer's bill, or the amount of money he or she must pay the municipality, is determined by multiplying the assessed value of his or her taxable property by the current tax rate in the community.

Property is assessed as it exists on October 1, the assessment day. Both real and personal property are subject to taxation: Real property refers to land and all improvements permanently attached to the land, while personal property relates to other kinds of tangible property.

A certified assessor or certified individual on the Board of Assessors shall be the only persons required to complete and file the Grand List by January 31 or February 28 if the chief executives officer has granted an extension. The Board of Assessment Appeals then processes it. The next step is to set the tax rate, which is done by the Board of Selectmen, Board of Finance or town or city council.

When putting together a tax bill, the most complex part is determining the assessed value of each item of taxable property. The property tax is so related to property values that it is often referred to as the ad valorem tax, i.e., a tax based upon the value of that which is taxed. The rule of valuation written into Connecticut law for all property except that which is classified as farm land, forest land or open space, is one of fair market value. The law states: "The present true and actual value...shall be deemed by all assessors and Boards of Assessment Appeals to be the fair market value thereof and not its value at a forced or auction sale"<sup>5</sup>

To provide a conservative basis for assessment, Connecticut assessors generally place a property's valuation at a percentage of its market value, a figure known as the assessment rate. This practice has been permitted by the courts since 1876.<sup>6</sup> (The courts insist only that, when applied, it be uniform throughout the community.) In 1957, however, the Connecticut Supreme Court ruled in *Ingraham Co. v. Bristol* that assessing property at a fraction of its actual value was improper, in view of state statutes. The Ingraham decision led, in 1959, to legislation, which legalized the use of the assessment rate, a practice that, as the court itself recognized, had been tolerated for so long that it "acquired the representation respectability of assumed legality."<sup>7</sup>

By law (S12-62a(b)) valuation is required to be 70 percent of fair market value. Market value has

been accepted by the Connecticut Association of Assessing Officers as the amount of money for which property may be exchanged (a) within a reasonable period of time and (b) under conditions in which both parties are willing, able and reasonably well informed.<sup>8</sup>

The courts have ruled on what is fair market value. Nonetheless, economic, legal, social, and physical conditions frequently change, and market value fluctuates accordingly. Three common gauges used in Connecticut are sales of comparable properties, replacement cost less depreciation and capitalization of income. Assessors apply two or more of these methods to verify and check their valuations.<sup>9</sup>

## **RIGHT OF APPEAL**

Boards of Assessment Appeals begin their work when the taxpayers wish to contest the assessment of their properties or the imposition of an additional conveyance tax under SS12-504a to 12-504f.

The first appeal is to the Board of Assessment Appeals in the town or city where the property is located.<sup>10</sup> Taxpayers must take two initial steps: Make a written application on or before February 20 or March 20, if the assessor has received an extension for the filing of the Grand List, and, at one of the meetings, offer or consent to be sworn in and give facts required by the Board, either orally or in writing, or both (S12-111, S12-113, S12-112).

Taxpayers may or may not be represented by attorneys.<sup>11</sup> If they are not satisfied with the board's decisions, they may turn to the Superior Court of the judicial district of the town or city in which their property is located (S12-117(a)).<sup>12</sup>

The Boards derive their legal authority from the General Statutes, municipal charter, or from a special act of the General Assembly. In addition, they are bound by the decisions of the federal and state courts.

The courts have, as well, affected assessment policy in their interpretations of fair market value, elaborating on the statutes which define market value.<sup>13</sup> At the same time, they have expounded on appeals procedures that a) explain when a taxpayer is aggrieved,<sup>14</sup> b) define the jurisdiction of the courts in appeals procedures,<sup>15</sup> and c) provide the legal remedy for wrong doings of assessors and Boards of Assessment Appeals.<sup>16</sup>

## CHAPTER 3

### NATURE OF BOARD OF ASSESSMENT APPEALS ACTIVITIES

The duties and responsibilities of Boards of Assessment Appeals are prescribed in different sections of the General Statutes.

### POWERS OF THE BOARDS

The Boards have eight distinctive powers, which they may exercise at their own discretion. They may:

1. Administer oaths in cases coming before them (S1-24 and S1-25).
  2. Correct clerical omissions or mistakes in the assessment of taxes (S12-60)
  3. Add to the assessment lists the names of people who own taxable property in the town, but have been omitted from the lists (S12-111)
  4. Increase the number, quantity or amount of property in any person's list (S12-111).
  5. Reduce the list of any person appearing before the Board by decreasing the valuation, quantity or amount of any item (S12-113).
  6. Make a supplemental list of any taxable property omitted by the assessors (S12-115).
  7. Shall add 25 percent to the value of any additions (S12-111) or supplemental lists of personal property (S12-115) as a penalty.
  8. Elect not to conduct appeal hearing for any commercial, industrial, utility or apartment properties with assessment greater than \$1,000,000 (S12-111).
2. Notify each aggrieved taxpayer, who filed a written appeal of the date, time and place of their appeal hearing by the March 1 or April 1 deadline (S12-11).
  3. Hear appeals of persons claiming to be aggrieved by the actions of the assessor (S12-111 and S12-504d)
  4. Post notice with the town or city clerk, and publish the notice at least 10 days prior to the meetings (S12-110).
  5. Mail to taxpayers written or printed notices at least one week before increasing the taxpayer's list or adding the names of omitted persons. Also mail within one week of completion, the supplemental list of any property omitted by the assessors (S12-115)
  6. Grant exemptions to disabled veterans whose proof of eligibility was not filed within the deadline required for assessors to grant exemptions (S 12-95).
  7. All actions of the Board must be recorded in the minutes of the Board's meetings (S12-113). See the following chapter on Freedom of Information requirements for meeting minutes.
  8. Provide notification, in writing, to each person making an appeal, of the outcome of his or her appeal. The notification must include information describing the owner's right to appeal the determination of the Board. This must be done within a week of making the decision (S12-111).

In addition to these discretionary powers, the Boards have statutory duties, which are mandated by law. They must:

1. Meet in March to hear appeals or April if the assessor was granted an extension for filing the Grand List. These meetings must be held on business days, which may include Saturdays; the last meeting must be no later than the last business day in March or April. The Board must also convene at least once in September solely for motor vehicle appeals (S12-111)

The courts refer to the Board of Assessment Appeals as an administrative board, not just as judicial tribunals. The State Supreme Court, for example, has stated that the Board of Assessors and the Board of Assessment Appeals are administrative boards, acknowledging that "in considering the results arrived at by them, we must bear in mind that the process of estimating the value of property for taxation is, at best, one of approximation and judgment, and that there is a margin for a difference of opinion."<sup>17</sup>

Boards of Assessment Appeals are said to carry out administrative or ministerial duties when they add omitted property to the assessment rolls, send out notices of any changes in taxpayer's assessments, or make supplemental lists. These functions are specified in the statutes, and must be performed by the Boards without regard to their own judgments. Although the statutes frequently use the word "may"

the courts will often consider the term equivalent to “shall” or “must.”

The Board exercises discretionary powers when it reduces or increases a taxpayer’s assessment. In such actions, its decisions have the authority of law until overruled by the court. Like the courts, the Boards must adhere to certain procedures and exercise an impartial review of the evidence; the Board’s decisions may be appealed to a higher tribunal. However, the Boards do not use rules of evidence in adversary proceedings, as do the courts. Moreover, the Boards are not bound by binding precedents, referred to in legal terms as the rule of stare decisis. This permits greater procedural flexibility and expediency in settling taxpayers’ grievances.

## **POWER TO INITIATE ACTION**

Do the Boards have the power to initiate review without a specific request? The statutes are clear on this point. What’s more, the answer is tied to another question: May the Boards reduce a taxpayer’s assessment if the taxpayer does not appear before the Board? Clearly, the answer is no.

The Boards are authorized to respond to written appeals under Section 12-111 of the General Statutes, which allows the Boards to equalize and adjust valuations and assessment lists, and to increase or decrease the assessment of any taxable property. According to Section 12-115, they also can add to the Grand List of a town any taxable property omitted by an assessor. However, additions made under Section 12-115 must be accomplished within the three months after the date the Board completes its duties.

## **BOARD’S PART IN REVALUATION**

Another important question concerns the Board’s role in the revaluation process. Revaluation entails a reappraisal of all of the municipality’s taxable property, and placing new values upon each item.

Changes in property values make this action necessary, and if not undertaken periodically, will result in inequitable assessments, causing in turn, an unequal distribution of the property tax burden. Connecticut law mandates assessors to conduct by mass appraisal methods, a revaluation of all real estate that includes a field view prior to the completion of each reevaluation. Assessors are required to “fully inspect” improved property by measuring or verifying the exterior and interior of all real estate every 10 years and perform revaluation update of all real estate

every 5 years (S12-62). When there is a Board of Assessors, the majority of the board is required to approve all established values.<sup>18</sup>

Revaluation generally prompts significant changes in the municipality’s Grand List. Consequently, the Board’s of Assessment Appeals experience their heaviest workloads following a revaluation- the number of appeals it normally hears can double. Section 9-199 (c) allows a municipality, by ordinance, to appoint additional members to the Board of Assessment Appeals for any assessment year.

While changes in assessed values have stirred adverse public reaction, and even political upheavals, revaluations are an integral part of sound assessment systems. If properly conducted, they benefit assessors, local administrations, and taxpayers alike.

## **RELATIONSHIP WITH THE ASSESSOR**

Boards of Assessment Appeals do not function in a governmental vacuum. They interact with many municipal officials, and frequently call on their help or, in turn, offer them assistance. The assessor, town or city clerk, Board of Finance, mayor, manager, selectmen- all work with the Board of Assessment Appeals at one time or another.

The official with whom the Board of Assessment Appeals has the most contact is, of course, the assessor. The assessor has a four-fold task. He or she (1) makes the preliminary compilation of the Grand List, (2) describes the property enumerated on the Grand List, (3) determines the valuation of each item of property, and (4) records all property descriptions and valuations.

The close operations between the Board and the assessor’s office make them partners in assessment administration, particularly as the two have common goals: Fair and equitable assessments. The satisfactory achievement of these goals depends, for the most part, upon reciprocal working arrangements.

Frequently, the matter of harmonious relations is tied to personality. Nevertheless, there are many ways to facilitate good relations between board members and the assessor. Board members, for example are advised to meet with the assessor prior to the Board’s first session; at the meetings, the assessor may explain the community’s assessment practices and the factors used in calculating valuation, such as cost schedules, classification systems, depreciation tables, and land value charts. In addition, the assessor may review, with the Board, the property assessment of those taxpayers who have filed for appeal hearings.

Before holding subsequent sessions, the Board may want to consult again with the assessor to find out why certain assessments have changed. It is also in a better position to answer taxpayer's questions on their assessments.

After listening to an appeal, but before reaching a decision, the Board may want to confer with the assessor about his or her reasons for the assessment, and other facts, which may or may not have been disclosed at the hearing, and could impact the Board's decision.

Should the assessor be present when the Board hears appeals? This is frequently asked by new Board members. The answer is, there are advantages and disadvantages to this practice. The advantages are that it gives the assessor a chance to discuss the case in question with the taxpayer, and to explain how he or she arrived at the assessment figures. Sometimes that is enough to satisfy taxpayers, and they will not pursue the appeal further. Moreover, having the assessor present during the appeal means that the taxpayer receives immediate answer, rather than having to wait several days while the Board contacts the assessor.

The biggest disadvantage of having the assessor present is that taxpayers may hesitate to speak openly, especially if they have had words with the assessor. Appeals should be conducted in a dignified and orderly fashion- the same as a court trial – and if the assessor is there, some taxpayers may feel as though they are facing their accusers.

Whether or not the assessor should be in attendance, therefore, is an individual matter. It depends upon the type of appeal heard, the personality of the assessor, and the conditions within the municipality. For the most part, however, assessors and board members alike feel that the assessor should be available, but not present, unless he or she is specifically requested to be there to explain a particular assessment. There would be no point for appeal to the Board if the assessor were to attend every hearing; conversely, it would be difficult for the Board to function at all if it did not consult with the assessor.

After completing its review and correction, the Board should meet again with the assessor to explain the changes made and the reasons for them. The key factor, however, is maintaining good working relations. What makes these relations even more vital is the fact that Connecticut assessors receive professional training prior to employment. They also must be certified. Yet, their decisions become subject to review by laymen who generally gain their first

exposure to assessing after being elected or appointed to office.

Once the Board of Assessment Appeals has made their decision, the Assessor does not have the power to change values until the next revaluation year except to (1) comply with an order of a court of jurisdiction, (2) reflect an addition for new construction, (3) reflect a reduction for damage or demolition, or (4) to correct a factual error. If the assessor changes the assessment established by the board for any other reason, the assessor must append a written explanation to the property card whose assessment was changed. (S12-111)

## **RESPONSIBILITIES TO THE PUBLIC**

As an arm of the municipal government, the Board of Assessment Appeals has important responsibilities to the public.

Board members generally are long-term residents of their community. That means they usually have many acquaintances in the area. Maintaining friendships without permitting friends to seek an advantage is a balancing role that becomes part of the Board's total operations, just as it does for any governmental official.

Board members may know a great deal about the residents' personal affairs, such as the size and worth of their holdings. This is the kind of information few people want revealed to the public, any more than they wish to have their income publicized. The Board, therefore, is obligated to perform its duties with discretion. However, under the state's "right-to-know" law (S1-210 and S1-225), all board records, like other official government records, must be made public, unless this would adversely affect the financial interests of the town or city, or the reputation or character of a taxpayer. The following practices can help board members in their unwritten responsibilities to the public:

1. Before holding meetings, the Board should be thoroughly familiar with the assessment systems in their town or city. This helps them understand and explain the assessment to the taxpayers. Oftentimes, taxpayers make their complaints known first to the assessor; in these cases, the Board may be able to secure information on the appeals from the assessor, together with the assessor's comments. This allows Board members to acquaint themselves, in advance, with some of the questions or problems that will be raised at the hearing.

2. All hearings should be conducted in a dignified and judicial manner, and Board members should assume professional demeanors.
3. Meetings must conform with the requirements of the Freedom of Information Act
4. A Board has the power to administer oaths (S1-24), and should take all testimony under oath.
5. When a taxpayer contests an assessment, Board members should personally inspect the property under question, if feasible. (Many changes, however, merely reflect clerical errors on cards.)
6. Unless the regular process had produced an assessment that is obviously excessive, the board should make changes in keeping with the municipality's system. This ensures uniform assessment, and helps to avoid charges of inequities by taxpayers. The Board should have a rationale for changes, which is consistent with the municipality's assessment system and can be justified within it.

## **CHAPTER 4**

### **FREEDOM OF INFORMATION REQUIREMENTS**

The Freedom of Information Commission (FOIC) was created in 1975 with the General Assembly's passage of the Freedom of Information Act. The act provides the public with rights to access records and meetings of public agencies. If people feel that they have been denied their rights, they may file appeals with the Freedom of Information Commission.

#### **FILING AN APPEAL WITH FOIC**

An appeal must be filed within 30 days of the alleged violation. The exception is when an unnoticed or secret meeting is involved: In those cases, it must be submitted within 30 days of receiving a notice that such a meeting was held.

There is no specific form to complete. A letter outlining the relevant facts- including the names, titles and addresses of the persons or agencies the person feels have violated the act, and the filer's business telephone- is sufficient to start the process. If a person wants to request that a civil penalty (fine) be imposed, as permitted under S1-21i(b) of the act, that should be stated in the letter S1-206(b).

Should an appeal concern a request for records contained in a public employee's personnel, medical or other personal file, the commission will require the respondent public agency to notify the subject employee(s). Any such employee(s) may intervene as a party to the appeal.

The commission's staff is available to help with any procedural questions. While staff members may refer people to specific sections of the law and cases interpreting them, only the commission has the power to interpret the law.

#### **PRE-HEARING CONSIDERATIONS**

A person bringing an appeal to the commission is called the "complainant," and the defending public agency or official is called the "respondent."

When an appeal is filed, the commission issues a "Notice of Hearing and Order to Show Cause." This is the official notice that the matter will be heard, and sets forth the date, time and place of the hearing. All parties named must appear at the hearing, either in person, or by counsel or other authorized

representative. A complainant's failure to appear leads to dismissal of the complaint. A respondent's failure to appear means forfeiting the opportunity to defend against the complainant's allegations.

The commission also has an "ombudsman" program. In the program, staff members serve as liaisons between the parties involved. They also attempt to effect settlements, but if that is not possible, the matter will proceed to a hearing.

Due to the large number of cases and the requirements for speedy action, the commission will not postpone scheduled hearings at the request of the parties unless they are negotiating a settlement, and ask a postponement based on the likelihood of agreement. For the same reason, hearings are scheduled within 90 minute time periods.

#### **SUBSTANCE OF THE APPEAL**

##### **1. Public Agencies**

A person has the right to obtain records and attend meetings of all public agencies. This applies to:

- a. State and local government agencies, departments, institutions, boards, commissions and authorities, and their committees
- b. Executive, administrative or legislative offices and the administrative functions of the judicial branch and the Division of Criminal Justice.
- c. Certain private entities based on the following criteria:
  - i. Whether the entity performs a governmental function;
  - ii. The level of government funding;
  - iii. The extent of government involvement or regulation; and
  - iv. Whether the entity was created by the government

##### **2. Public Meetings**

Meetings, such as hearings and other proceedings, must be open to the public – except in limited situations.

A public meeting is any hearing or other proceeding where a public agency discusses or acts on a matter over which it has authority. It may also include a gathering of, or communication by or to, a quorum of a multi-member agency.

The following are not public meetings: Meetings of certain personnel search committees; collective bargaining strategy and negotiating sessions and caucuses.

No registration or other requirements may be imposed on those wishing to attend public meetings.

The public, as well as the news media, may photograph, record or broadcast meetings. This is subject to reasonable rules regarding non-interference with the conduct of the meeting.

Only three kinds of meetings are recognized under the Freedom of Information Act: Regular, special and emergency.

Each year, agencies must file schedules of their regular meetings. State agencies send their schedules to the Secretary of the State. Town and city agencies file with their own town or city clerk, and multi-town districts and agencies file with each municipal member of the district or agency.

Agencies must notify people of their meetings, if they request it in writing. If possible, notices should go out a week beforehand. Agencies may also charge a reasonable fee for this service.

Agendas must also be available at least 24 hours before the meeting. New business- that is business not on the agenda- may be considered and acted on only on a 2/3 vote by agency members.

Special meetings may be called up to 24 hours before regularly scheduled meetings (weekends, holidays, and days when the Secretary of the State's or municipal clerks' offices are closed are excluded). To do this, a notice is prepared, stating the time, place and business to be transacted. State agencies file this notice with the Secretary of the State, local agencies with the municipal clerk; multi-town districts and agencies with the clerk of each municipal member of the district or agency. The public is entitled to copies of the notices, as well as meeting agendas.

### **3. Meeting Minutes**

Agency minutes and record of votes must be available to the public. Minutes must be available to the public within 7 days of each meeting, either in the agency's office or the office of the Secretary of the State. They must contain the record of each member's vote. Additionally, the votes must be put in writing, and made available to the public within 48 hours of the meetings (excluding weekends and holidays). S1-225

### **4. Executive Sessions**

Agencies may close portions of their meetings, with a vote by 2/3 of the members present. This vote must be taken at a public session.

Meetings to discuss the following matters may be closed: Specific employees (unless the employees request that the discussions be open to the public);

strategy and negotiations on pending claims and litigation; security matters; real estate acquisitions (if openness might increase price); or any matter that would disclose a public record exempted from disclosure requirements.

While agencies may invite people to present testimony or opinion, their attendance must be limited to the time it takes to deliver their comments.

## **5. Public Records**

The public may inspect or copy most records or files of the state and local agencies, including minutes from the meetings. This encompasses information or data which is typed, handwritten, tape recorded, printed, photographed, or computer-stored, along with most interagency and intra-agency memoranda or letters.

Records specifically exempted from disclosure by federal law or state statute are not open to the public. Furthermore, the following may not be available as well: Some preliminary drafts or notes; personnel or medical files; certain law enforcement records, including arrest records of juveniles and some witness and victim identification information; records relating to pending claims and litigation; trade secrets; test questions used to administer licensing, employment, or academic examinations; real estate appraisals and construction contracts (until all property has been acquired); the personal financial data required by licensing agencies; records relating to collective bargaining; tax returns and communications privileged by attorney-client relationships; names and addresses of public school students; information obtained by illegal means; certain investigation records of reported misconduct in state government, or names of employees who report such misconduct to the state attorney general or auditors; certain adoption records; and election, primary, referenda and town meeting petition pages, until certified. Also, records of personnel search committees need not be disclosed if they would identify executive-level employment candidates without their consent.

A person may inspect public records during regular office hours, but copies, printouts or transcripts should be requested in writing. The fee for copies of public records from state agencies must not exceed 25 cents per page; charges for public records from non-state agencies must not go above 50 cents per page. A fee for computer disk, tape or printout, or for a transcript or a copy of a transcript, must not exceed the actual cost to the agency involved.



If their estimated value is \$10.00 or more, agencies must require prepayment of these fees. No sales tax may be imposed for copies of the public records.

The agency is required to waive any fee for copies if the person requesting the copies is poor and cannot afford it, or if the agency determines that the request benefits the public welfare. There is an additional charge for a certified copy of a public record. A person is entitled to prompt access to inspect or copy public records. If an agency fails to respond to a request within four business days, this can be treated as a denial of the request.



## CHAPTER 5

### ORGANIZATION OF THE BOARD

In most Connecticut municipalities, the Board of Assessment Appeals is organized in a similar fashion. The few variations depend on whether the municipality is administered by the General Statutes or special act; those administered by the General Statutes fall under the following provisions.

### MEMBERSHIP

Unless otherwise provided by law, each town elects three assessors, and a Board of Assessment Appeals comprised of three members elected for a term of four years (S9-199(c)). All members are elected (S9-185), unless appointment is permitted legally. Some town charters and special acts, in fact, specify that they be appointed. As previously mentioned, S9-199(c) now allows a municipality, by the municipal legislative body, the appointment of additional members to the Board of Assessment Appeals for any assessment year.

The uniform election law (S9-164) states that elections take place in odd-numbered years, on the first Monday of May, or the Tuesday after the first Monday of November, whichever date is selected by the municipal legislative body. "Unless otherwise specified by law, each town shall elect such offices at regular municipal elections for terms of four years" (S9-199). When the number to be elected is even, no person is to vote for more than one-half of the total number of board members; when the number is odd, no person shall vote for more than a majority (S9-199).

Towns which adopt biennial elections elect board members for 4 years, with their terms of office staggered. The electors in such towns may vote for the full number of members (S9-199).

Where there are enough candidates to fill all vacancies on the board, those having the highest number of votes are elected (S9-199). However, the maximum number of members permitted from the same political party, whether they are appointed or elected is as follows: Two for a three-member board, three for a four-member board, and four for a five-member board. This provision is in keeping with the state minority representations law (S9-167a), which guarantees minority party representation on all boards and commissions.

Board members hold office for the term to which they are elected, and until their successors are elected and have qualified for the position (S9-199). When a vacancy exists, the town must fill it at the next municipal election, or at a special election. Until then, the vacancy is filled by a vote of the Board of Selectmen through a temporary appointment (S9-220), from the same political party as the board member vacating the position (S9-167a).

Board members must vacate their offices when they cease to be electors of the towns and cities in which they were elected (S9-186). The office then is considered vacant. Within 5 days of filling the position (S9-223), the town clerk, mayor or borough warden must notify the Secretary of the State.

No assessor can serve on the Board unless such service is provided by special act. Moreover, no member of the Board of Finance may serve on the Board if it is a salaried office (S9-210).

There are no specific qualifications for the office, other than the requirement that board members be electors of the municipality in which they are elected (S9-186). Both elected and appointed boards generally are composed of lay people who may have little or no specialized training or knowledge of assessment procedures.

Each board member must be duly sworn in, according to the following oath (S7-105), before entering office.

"You solemnly swear that you will faithfully discharge, according to law, your duties as member of the Board of Assessment Appeals to the best of your ability; so help you God" (S1-25).

Towns and cities without charters may establish compensation for board members by a motion at any town meeting. If the town does not set the compensation, the Board of Selectmen has the authority to do so, and the amount will hold until changed by ordinance at a town meeting.

The votes board members make must be put in writing. They must be available for public inspection within 48 hours, and recorded in minutes within 7 days. Further, by January 31, the board must file the time regular meetings will be held during the year (S1-225).

## ACCOUNTABILITY

Because of the vital role boards play in assessment administration, the General Assembly has put procedures in place to hold them accountable for their actions. The Secretary of the Office of Policy and Management, as well as the state's attorney may examine the board's operations and records. As a further check, their decisions are subject to judicial review by state and federal courts. Some actions are, by law, expressly forbidden to the boards:

1. They shall not adjust the assessment of personal property belonging to any person, or the valuation, number, quantity, or amount of any item of property reflected therein until the board receives information necessary to substantiate such an adjustment in accordance with subsection (c) of S12-53. (S12-114).
2. They shall not reduce the valuation or assessment of property on the Grand List belonging to any person who does not appear at a hearing before the board, or have their attorney or agent appear before the board and offer or consent to be sworn before it and to answer questions concerning their taxable property within the town. (S12-113)
3. They may not hear appeals which have not been made at the proper time; that is, by February (or March) 20 (S12-112), or during September for appeals related to motor vehicle assessments (S12-112), or in any other month designated by special act.
4. They may not perform unlawfully, or omit any necessary action connected with the assessment process (S12-170).
5. They may not charge or receive illegal fees (S12-170).
6. They may not remove a penalty imposed under S12-41(d) for individuals who fail to file a personal property declaration or a penalty that is imposed for omitted property. Penalties may be adjusted to reflect an increase or decrease to the assessment that is changed by the Board (12-114).

In addition, the General Statutes contain the following provisions that hold Boards of Assessment Appeals, along with other municipal officers, accountable to state authority:

1. If the Secretary of the Office of Policy and Management decides that a board has failed in

its administrative duty, by law, he or she may bring this, in writing to the attention of the Board. Should the Board not comply, the Secretary may apply to the Superior Court in the judicial district where the Board is located; if the court finds the facts stated in the application to be true, it issues a mandamus requiring compliance (S12-4).

2. The Secretary of the Office of Policy and Management may hold meetings, conferences and schools for Assessors, Boards of Assessment Appeals, Tax Collectors and or municipal finance officers (S12-2b).
3. If the state's attorney believes that a board has falsified records, or has appropriated money for its own use or the use of others not entitled to it, he or she may apply to the Secretary of the Office of Policy and Management. The Secretary may order an audit of the Board's record and transmit a certified copy of his or her report to the State's Attorney. Any audit costs are borne equally by the municipality and the state.

The custodian of any books of accounts or records who refuses to deliver them to the Secretary or his or her agent shall be fined not more than \$200, or imprisoned not more than 60 days, or both (S12-6).

The Secretary of the Office of Policy and Management has considerable power over property tax administration. In practice, he or she generally goes along with the majority vote on the Board of Assessment Appeals. However, on questions concerning the proper execution of law, Section 12-4 permits the Secretary to investigate irregularities.

Besides appealing to the Secretary, a board member with a complaint against other board members may also appeal to the chief administrative officer and the town counsel.

## FINES AND PENALTIES

For any infringements of the laws, board members, as individuals or a collective body, are subject to the following penalties and fines:

1. For not accepting or performing duties:
  - a. Individuals who refuse to accept the office and take the oath prescribed by law will be fined \$5 unless they have a reason for refusal (S7-104).

- b. Individuals who neglect to perform the duties of the office will be fined not more than \$10 (S7-104).
  - c. Individuals who fail to discharge their administrative duties according to law, and who fail to comply after it has been put in writing by the Secretary of the Office of Policy and Management will be subject to mandamus by the court requiring compliance (S12-4). Additionally, the court shall render judgment against the board with costs. If the Board does not heed the mandamus, it shall be held in contempt, and the court may punish the members as in mandamus proceedings (S12-4).
  - d. Boards which hinder or refuse to deliver records upon demand by the Secretary of the Office of Policy and Management, or his or her agent shall be fined not more than \$200, or be imprisoned not more than 60 days or both (S12-6).
2. For official misconduct:
- a. Individuals who commit unlawful acts or omit necessary acts must pay \$50 to the aggrieved person (S12-170).
  - b. Individuals who receive illegal fees must forfeit \$50, plus an amount double that of the illegal fees, to the aggrieved person (S12-170).
  - c. For illegal reduction of lists
    - i. Board members shall not reduce the list or the valuation, number, quantity or amount of any item of property in the list of a person who has failed to submit his or her sworn statement to the assessor until such person submits substantiation of such adjustment.
    - ii. The Board shall add a 25% penalty to such adjusted lists.

and believes that disclosing them would constitute an invasion of privacy, the agency must notify the employee and his or her collective bargaining representative in writing. If the employee provides a written objection within 7 business days of the notice, the agency shall not disclose the records unless ordered to do so by the Freedom of Information Commission.

## **ACCESS TO BOARD RECORDS**

The records of the Board of Assessment Appeals must be made public (S1-210), except as otherwise provided by federal tax law, or state statute or regulation. They should be kept in an accessible location at the Board's office or place of business, or in the Town Clerk's office.

Every resident has the right to inspect the records and to receive a copy of them (S1-210). Copy fees must not exceed \$.50 a page.

When an agency is asked to inspect or copy records from employees' personnel or medical files



## **CHAPTER 6**

### **OPERATIONS**

Most of the Boards' work entails hearing taxpayers' appeals and acting on their complaints. The process, which is described under Title 12 in the General Statutes, frees the courts from handling minor cases, while freeing taxpayers from costly and time consuming litigation. In most instances, the courts will not hear a case unless the taxpayer uses the legal remedy for relief which Boards of Assessment Appeals provide.

### **MEETING NOTICES**

Notice of all regular public meetings to be held by a town's public agency, as defined in S1-200, must be filed with the Town Clerk. (The definition of a public agency includes the Board of Assessment Appeals.) The Board of Assessment Appeals must file notice of its September meeting(s) by January 31. This notice requirement also encompasses any other regularly scheduled meeting (such as an organizational meeting) that a Board of Assessment Appeals may schedule. With respect to meetings to be held in either March or April, the notice as filed should indicate that the Board of Assessment appeals will schedule hearings for assessment appeals received on or before the applicable grievance date (S1-225).

### **HEARING TAXPAYERS' APPEALS**

Only the Board of Assessment Appeals – not the municipal legislative body has the power to take appeals from taxpayers and review and correct the work of assessors.<sup>19</sup> This is authorized under S12-111 (S12-113, S12-113) of the General Statutes. However, under statute S12-119, appeals may be taken directly to the Superior Court, without first applying to the Board. This can be done if it can be proven that the assessment was "manifestly excessive," and was determined without regard for the statutes that govern property valuation.

The State Supreme Court distinguishes between the two statutes. It defines an appeal under S12-111 as one which concerns the valuation of property on the Grand List; an appeal under S12-119 involves relief against the collection of an illegal tax.<sup>20</sup>

The court also distinguishes between the types of cases it hears under S12-119. For example, it has ruled that the appropriate remedy for a claim of overvaluation is an appeal to the Board of Assessment Appeals under S12-111 not to the Superior Court under S12-119.<sup>21</sup>

The court also has stated that taxpayers seeking relief must apply first to the Board of Assessment Appeals. In one case, when a taxpayer failed to do this, the court denied the recovery of taxes paid voluntarily.<sup>22</sup> However, in an earlier decision, the court held that a non-resident whose property was wrongfully assessed waived no rights by not applying first to the Board.<sup>22</sup> (Pranulis 1997)

Individuals or organizations claiming to be aggrieved by the actions of the town or city assessors, may appeal to the Board of Assessment Appeals. What constitutes an aggrieved taxpayer has been considered by the court in several cases. A person whose property had an excessive valuation, which the board refuses to reduce, is aggrieved in the eyes of the court.<sup>24</sup> However, a taxpayer is not aggrieved unless the alleged assessment increases his or her tax.<sup>25</sup> Moreover, a taxpayer is not aggrieved where the court finds his property was assessed at its true and full value, despite an error in the method of valuation.<sup>26</sup>

The following individuals or organizations claiming to be aggrieved may appeal to the Board of Assessment Appeals:

1. Taxpayers owning property in the town or city, including any lessee of real property whose lease has been recorded as provided in S47-19, and who is bound under the terms of the lease to pay real property taxes. This includes anyone to whom the title to such property has been transferred since the assessment day.
2. Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization that claims property tax exemption under provisions of S12-81, and files a tax exempt statement with the assessor or Board of Assessors (S12-89).
3. Any farmer or group of farmers applying for tax exemptions of farm machinery, horses or ponies owned in the state (S12-91(b)).
4. Any disabled veteran claiming property tax exemptions (S12-81 (19-21)).
5. Any association of unit owners charged with the administration of property under the Condominium Act, appealing on behalf of property owners (S47-80a)

6. Any owner of woodland, land suitable for forest or open space land (S12-107(f), S12-107(g) or farm land (S12-107d).
7. Any individual or organization aggrieved by the assessor's imposition of an additional conveyance tax under S12-504 a through f.
8. The Board has the right to not conduct a hearing on commercial, industrial, utility, or apartment property (S12-111) with an assessed value greater than \$1,000,000.

Any person receiving an increase, as a result of a certificate of correction for a clerical error (S12-60) or new real estate construction (S12-53a), in assessment may be extended to the next succeeding Board of Assessment Appeals if the meetings of such board for the Grand List have passed.

## APPEALS PROCEDURE

Appeals must be presented to the Board at one of its March or September (motor vehicle assessments only) meetings (S12-111). The taxpayer or representative of an organization claiming a grievance must provide information necessary to substantiate any adjustment the Board of Assessment Appeals may make in accordance with law (S12-114). The taxpayer must:

1. Submit a written application for appeal to the Board of Assessment Appeals, on or before February 20 or March 20 if the assessor was granted an extension for filing of the Grand List (S12-111)
2. Appear, or have his or her attorney or duly authorized agent appear, before the Board at one of its meetings (S12-113)
3. Appear at the board's September meeting.
4. Be sworn, or have his or her attorney or duly authorized agent sworn, before the Board, and answer all questions concerning his or her taxable property in town (S12-113).

The written appeal shall include the property owner's name, name and position of the signer, description of the property which is the subject of the appeal, name and mailing address of the party to be sent all correspondence by the board, reason for the appeal, appellant's estimate of value, signature of the property owner or duly authorized agent of the property owner, and the date of the signature (S12-111). If any of the above items are missing, or if it is received after the February 20<sup>th</sup> deadline, the appeal may be rejected.

How important is a personal appearance when filing an appeal? The court has ruled that failure to

appear and be sworn before the Board is not sufficient grounds to prevent the court from hearing an appeal.<sup>27</sup> Moreover, the court has stated that failure to appear before the Board cannot deprive a taxpayer of the right to be heard in court.<sup>28</sup>

The court has also said that adding property to the list of one taxpayer is not invalidated by the fact that it is erased from the list of another who did not appear before the Board.<sup>29</sup> Furthermore, if the Board delegates a member to take a sworn statement at the home of a taxpayer who is ill, it does not deprive the taxpayer of the right to appeal.<sup>30</sup> At another time, the court held that the law requires a personal appearance before the Board, not merely a letter stating that the taxpayer was ready to be sworn and questioned.<sup>31</sup>

The law is clear on one point: Property owners must submit information necessary to substantiate an assessment adjustment to the Board. According to S12-41, property owners are required to file a declaration of personal property that is by law subject to taxation to the assessor by November 1. While the Board of Assessment Appeals may adjust the assessment of personal property belonging to any person, even if such person has refused or unnecessarily neglected to file a declaration, no such an adjustment should be made until the Board receives information necessary to substantiate such an adjustment in accordance to law, S12-114.

People who have personal property in a town or city more than three months of the year immediately preceding any assessment day, but are not residents of that town, must file a list with the assessor of the community where the property is located. Property of residents and non-residents are subject to the same provisions (S12-43).

When a taxpayer does not file a list, or files one that is incorrect, the assessor must work with "the best information" available (S12-114). Parcels of real estate must be listed separately- phrases such as "property same as on last year's list" are not sufficient<sup>32</sup>

Declarations do not have to be filed when motor vehicles are registered with the Connecticut Department of Motor Vehicles (S12-41b).

Should all Board members be present when an appeal is heard? The statutes are silent on this question. They also do not shed much light on how many members must be in attendance when action is taken on the appeal.

Because of accelerating workloads, some Boards follow the practice of having only one member hear an appeal at a given time. In Hartford County, for



example in 1960 the Boards heard 753 appeals; by 1993, the number reached 2,742. New Haven County Boards heard 1,169 appeals in 1960; 33 years later the total had soared to 4,380. Litchfield County processed 875 appeals in 1993 compared to 496 in 1960.

The workload tends to vary with the population but also appears to be greatest in periods following a revaluation. The result of heavy loads is that Board members may not have the time to inspect all pieces of property, or to assemble to hear every appeal. Time may be saved if only one member hears an appeal, enabling other members to take other cases. If a Board elects to hear appeals by one member, it must still make its decision as a Board. A municipality may, by ordinance, authorize its legislative body to appoint additional members to the Board for any assessment year (S9-199(c)).

## **ACTION BY THE BOARD**

After hearing an appeal, the Board may take any of the following actions:

1. It may reduce the taxpayer's list by reducing the valuation, number, quantity, or amount of any item (S12-113).
2. It may increase the items of taxable property on the list, or step up the number, quantity or amount of those items (S12-111).
3. It may add taxable property or an interest in taxable property which the assessor has omitted (S12-111).
4. It may waive the Income & Expense penalty if this option was adopted by the local authorities. (S12-63c(d))

Before increasing a taxpayer's assessment, or adding an omitted name to the Grand list, the Board must mail a written or printed notice to the taxpayer at least a week before taking the action. The court holds that failure to receive a written notice is waived by a taxpayer's appearance before the Board.<sup>33</sup> A taxpayer who voluntarily appears before the Board, and is fully heard, cannot later take advantage of the fact that he or she received only 4 days notice of the hearing, instead of one week.<sup>34</sup>

The notice, postage paid is addressed to the property owner in the town where he or she lives (S12-111). The communication notifies the individual that he or she must appear before the Board and show why an increase or addition should not be made.<sup>35</sup>

The Board must also send out a notice before making an increase in the valuation of an item already

on the list (S12-111). The notice, written or printed, must be mailed, postage-paid, a week before making the increase, and should be addressed to the property owner in the town in which he resides.

In addition, the Board must reveal, in writing, the final determination of each taxpayer's appeal (S12-111). This notification must go out within a week of the Board's decision, and must include notice of the next course of appeal.

## **SUPPLEMENTAL LISTS**

The Board of Assessment Appeals may make supplemental lists of taxable properties which may have been omitted by the assessor within 3 months from the completion of their duties. This activity may be compelled by mandamus.<sup>36</sup>

In compiling these lists, the Board does not serve as an agent of the municipality; rather, it functions in an administrative capacity.<sup>37</sup> The Board shall also add 25% of the assessment for personal property for which a declaration was not filed (S12-115). Further, the Board must make the list within 3 months of the date it completes its duties.

When making a supplemental list, the Board must send a written or printed notice, postage-paid to the taxpayer whose name appears on the list (S12-115). This must be done within a week of completing the list. It must be addressed to the taxpayer in the town or city where he or she lives, and notify him to appear before the Board at a stated time and place to show why his or her property should not be included in the supplemental list. An aggrieved taxpayer may appeal to the Connecticut Superior Court within two months of the Board's action.

Except as otherwise provided by law, selectmen must make out and sign the supplemental rate (i.e. tax) bills, and any judge of the Superior Court or any justice of the peace, on their application or that of their successors in office, shall issue a warrant for collection (S12-130). This section also requires the tax collector to include, with the tax bill, a statement of state aid to the municipality. The same powers apply for collecting the tax on the supplemental list, as for other taxes (S12-115).

## **CORRECTING CLERICAL ERRORS**

The Board of Assessment Appeals may correct any clerical omission or mistake made in assessment (S12-60). These corrections must be made within three years of the tax due date.

The court is quick to point out this power does not authorize assessors to review assessments which were appealed and revised by the Board.<sup>38</sup> Clerical omissions or mistakes do not include errors of substance,<sup>39</sup> and can be taken advantage of only by those taxpayers on whose lists they occur.<sup>40</sup>

Taxes resulting from these errors are levied and collected according to the corrected assessment (S12-60).

## COMPLETION OF THE BOARD'S WORK

The Board must finish its duties by the last business day in March, or April if the assessor was granted an extension for filing of the Grand List, unless otherwise provided by law or special act (S12-110).<sup>41</sup> This period may, for due cause, be extended by the Chief Executive Officer of the town for one month. During a year of revaluation, it may be extended for a period of 2 months.

The Chief Executive Officer of the town must send written notice of the extension to the Secretary of the Office of Policy and Management (OPM) within 2 weeks of approving the extension (S12-117).

When Boards are granted extensions, the time the assessor has to transmit abstracts of their assessment lists is extended for like periods (S12-117).

Often times, the Board has more appeals than it can handle in its allotted time frame. The following procedures apply if this happens. The Secretary of the Office of Policy and Management may authorize assessors to use the last prior assessment list, subject to transfers of ownership, additions of new construction, and reduction for demolitions, and any adjustments the Board authorized under S12-117(c). A town's Board of Assessment Appeals and Chief Executive Officer must provide information to OPM, in writing, concerning the number of pending appeals. The list from which the appeals were taken then becomes the list for the next assessment year, subject to adjustments made by the Board (S12-117).

After the Grand List has been examined and corrected by the Board, the assessor sends an abstract of the list to the Secretary of OPM. The Secretary furnishes a form for this purpose annually at least 30 days before the date on which it is to be filed. The assessors or Board of Assessors should correct any clerical errors that appear on the corrected Grand List (S12-120).

## CHANGES AFTER THE LAST SESSION

The Board, in discovering new items that have been omitted, has the power to make a supplemental list of the new property, and to value it. (None of the items should have appeared in the assessor's or the Board's list.) This should be finalized within 3 months after the Board's last business day in March or April (S12-115).

The Board may not subsequently increase the assessor's valuation under S12-115. Any change in valuation of property that is listed by the assessor, and not omitted must be completed in March or April under the provisions of S12-111 to 115. These statutes, authorizing supplemental lists, relate to property omitted by the assessor and the Board; after the last day of March, the Board can act only on property left off of both lists.

## REPORTS TO BE FILED

A certified assessor is the only person required to sign the Abstract of Taxable property following the completion of their duties (S12-55). During a revaluation in towns where there is a Board of Assessors, a majority of that board is required to approve all established values. The Board of Assessment Appeals may also sign the Abstract although they are not obliged to do so.<sup>43</sup>

When the Board finishes the assessment list, the town levies a tax payable July 1 (S7-383). Information regarding the assessment and collection of taxes, the amount of taxes levied and collected, and other pertinent details are provided to the public by the Secretary of OPM. This data is contained in the annual reports published by OPM called "Municipal Fiscal Indicators."

## PUBLIC RECORDS ADMINISTRATION

The following is the retention schedule for reports per the Connecticut State Library:

1. M7-370 Appeals, *approved*, and notifications relating thereto (S12-111)
  - a. Minimum retention is 1 year if no court appeal taken
  - b. May be destroyed
2. M4-380 Appeals, *denied*, and notifications relating thereto (S12-111)
  - a. Minimum retention is 1 year if no court appeal taken
  - b. May be destroyed.

## CHAPTER 7

### APPEALS TO THE COURTS

Decisions rendered by the Board of Assessment Appeals are binding unless they are changed by the assessor on the next subsequent Grand List, when a reduction was not equitably instituted, or when they are appealed to the state courts through regular legal channels. Property owners wishing to appeal decisions must follow certain procedures; these appeals are taken to the Superior Court for the judicial district of the town in which the property is located. (S12-117)

### WHO MAY APPEAL

The following individuals or organizations may appeal the Board's decision:

1. Any person claiming to be aggrieved by an action of the Board.<sup>44</sup> This includes any lessee of real property whose lease has been recorded, as provided in S47-19, and who is bound under the terms of the lease to pay real property taxes (S12-117a).
2. Any person aggrieved by an action of the Board in compiling a supplemental list (S12-115).
3. Any scientific, educational, literary, historical, charitable, agricultural, or cemetery organization that filed a tax exempt statement (S12-89).
4. Any farmer or group of farmers applying for tax exemptions of farm machinery, horses or ponies owned in the state (S12-91(b)).
5. Any owner of farm land (S12-107c), forest land (S12-107d), open space (S12-107e), and others qualifying under S12-96 to S12-100, who seek special classification for taxation purposes (S12-103) and any person who disagrees with the additional conveyance tax determined under S12-540a to S12-540f.
6. Any veteran, spouse of a veteran or blind person or spouse who claims property tax exemption (S12-81)
7. Any other individual or business claiming exemption under the various exemption laws of the state.
8. Any person receiving an increase as a result of a certificate of correction for a clerical error (S12-60), or new real estate construction (S12-53a). An assessment may be extended to the next succeeding Board of Assessment Appeals if the

meetings of such Board for the Grand List have passed.

9. Any owner of commercial, industrial, utility or apartment property with an assessed value of \$1,000,000 or more whose appeal the Board of Assessment Appeals has chosen not to hear.

In certain cases, appeals may bypass the Board of Assessment Appeals and go directly to the Superior Court, which has exclusive jurisdiction over these appeals and those from other administrative boards or commissions.<sup>45</sup> The assessment must be proven to be "manifestly excessive," and disregard the provisions of the statutes for determining the valuation of the property (S12-119).

The appeal must be filed within 2 months of the mailing of notice of the Board's action (S12-117a). However, if the Board receives a 1-month extension (or a 2-month extension in the year of a revaluation) to complete its duties, the taxpayer also receives an extension for a similar period for filing his or her appeal (S12-117).

Once a case goes to court, the Board's work is ended. It cannot review the case again, just as the assessor or town counsel cannot reduce an assessment after a case is brought to court. In an advisory opinion to a taxpayer in June, 1964, the state tax commissioner stated, "We have always held the opinion that when the time within which the assessors and boards of tax review had to complete their duties had passed, only a court of competent jurisdiction has the power to grant relief by reducing an assessment."<sup>46</sup>

The tax commissioner's opinion was based upon several court cases, one of which held:

Assessors have no implied power to settle pending litigation arising out of assessments, since such power is not necessary to the proper performance of their statutory duties. Ratification and estoppel are grounds for enforcing a contract against a municipality only where the contract, though not executed by the particular manner by the law, is one which the municipality has power to make. An agreement by assessors to reduce an assessment revised by the board of relief in consideration of the taxpayer's abandonment of his or her right to appeal to the Court of Common Pleas is not enforceable on the grounds of ratification and estoppel, since it is a contract beyond the power of the municipality and its officers to make. One dealing with a municipal officer or agent in the transaction of purely governmental matters is bound to know the legal limitations of his authority.

The town counsel and taxpayer's attorney may reach agreement in a disputed assessment case. Even

so, they must bring the case to the Superior Court for the judicial district in which the taxpayer's property is located and obtain approval of the court. The court may or may not follow their advice, but a court case cannot be avoided by seeking an agreement out of court. Such an agreement or compromise, the state tax department affirms, would be asserting itself into one of the levels of appeal. When the Board completes its work, the only abatements permitted are those provided under S12-124 through S12-127a.

## COURT PROCEDURES

The following procedures must be followed for appealing Board decisions to the Superior Court for the judicial district in which the town is located (S12-119):

1. The appeal must be in the form of an application, and accompanied by a citation to the taxpayer's town or city to appear before the court.<sup>48</sup>
2. The citation must be signed by the same authority, and the appeal served and returned in the same manner as a summons in a civil action.
3. The authority issuing the citation must take, from the applicant, a bond or recognizance to the town or city, with surety to prosecute the application and to comply with all court orders and decrees.

If a new assessment year begins during a pending appeal to the court, the applicant may amend his or her application. The applicant does not have to appear before the Board again to make the amendment effective.

An appeal from a board decision is considered a preferred case. It will be heard by the Superior Court at its first session – unless good cause appears to the contrary – or the court will appoint a committee to hear the case (S12-117a). Voluntary payment of the tax generally results in dismissal of the appeal.<sup>49</sup>

The Superior Court has the power to grant relief in equitable ways. For example, the court may add property to the Grand List.<sup>50</sup> It may impose double or triple costs, if the application appears to have been made without probable cause, and it may charge court costs at its discretion (S12-117a). However, the court will not generally reduce the valuation below that given by the owner,<sup>51</sup> nor will it place the valuation higher than that of the Board of Assessment Appeals.<sup>52</sup> It may also add property to the Grand List.

Once the value is determined by the court, the assessor must maintain that value until the next revaluation unless there is a change in the property.

## ACTION BY THE MUNICIPALITY

Pending the appeal, the town or city cannot collect more than 75% of the tax assessed or 90% if the assessment is \$500,000 or more. Still, while the right to enforce payment is suspended by the appeal, the accrual of interest is not.<sup>53</sup>

If the court reduces the assessment, the municipality must reimburse the applicant for any overpayment of taxes, interest (10%), and costs may be awarded at the discretion of the court (S12-117a).<sup>54</sup>

Recovery of taxes paid has been permitted by the court in some cases, but denied in others. For instance, the court has ruled that when a person pays taxes illegally assessed against him or her, whether or not it was compulsory, he or she may recover the money.<sup>55</sup> However, a manufacturing corporation relocating to another state on the taxing date, and failing to take advantage of relief from excessive assessments, could not use as the defense that the property had been removed to another state where it became liable to that state's taxes.<sup>56</sup> On the other hand, liability to pay interest does not make a payment of the tax involuntary; moreover, recovery of the money paid on the interest is not allowed by the court.<sup>57</sup>

## COURT APPEALS

Without a substantive foundation for an appraiser's opinion of value, the court should give deference to valuation arrived at by the Board of Assessment Appeals or their assessor. The town offered no appraisal in support of its valuation and it is not required to do so.<sup>58</sup> "A taxpayer who fails to carry his burden (of establishing overvaluation) has no right to complain if the trial court accords controlling weight to the assessor's valuation of his property."<sup>59</sup>

If the plaintiff's appraiser did a piecemeal appraisal, failed to use actual income and expense figures and failed to use credible comparables, to arrive at the value of the subject property, the court should not credit that testimony.<sup>60</sup>

It is basic to a S12-117a tax appeal that "the taxpayer bears the burden of establishing that the assessor has over-assessed its property."<sup>61</sup>

When an appraiser uses the income approach as a method of determining the value of income producing property, the appraiser must be aware of

S12-63b(b) that requires the assessor and therefore the appraiser to consider the contract rent of the subject property when determining market rent.

The court has rejected a plaintiff's claim that the court is limited to considering only valuation of a portion of the property when that is all the plaintiff led in its complaint.<sup>62</sup> The Supreme Court in *Konover v. Town of West Hartford*<sup>63</sup> concluded that the trial court could not exclude part of the taxpayer's property from consideration but must consider all of the property as a whole. "We never held that a trial court in a de novo appeal pursuant to S12-117a may determine the value of only a portion of a taxpayer's property." The ultimate question in a S117a tax appeal is not the value of separate segments of the taxpayers' property, but rather "the ascertainment of the true and actual value of the taxpayer's property."



## CHAPTER 8

### IMPROVING ASSESSMENT REVIEW IN CONNECTICUT

Having a municipal agency review the tax assessment affords the dissatisfied taxpayer a ready opportunity to appeal an assessment. The appeals procedure takes place at minimal cost to the community, and in most cases, avoids costly and time-consuming court litigation if the taxpayer presses the appeal no further. Procedurally, the local Board of Assessment Appeals works well in Connecticut's local governmental structure, and from the standpoint of operations costs, is one of the least expensive of all local boards.

While there are advantages to having citizens or lay people on the boards, the time has long passed when just any person can perform those duties. There is an inherent contradiction in the general process. It may entail an unskilled, part-time board correcting the mistakes of a part-time assessor; a political assessor paired with uneasy taxpayers; or the hazards faced by a proficient assessor defending his or her appraisals against the opinions of an unqualified and often politically minded board that lacks knowledge of assessment standards. It can be said that all three situations currently exist in Connecticut.

To change valuations or assessments, Board members must comprehend what, where, and when property is assessable. They should have an understanding of the three approaches to value used by assessors and real estate appraisers in mass appraisal. Knowledge of land valuation principles, depreciations and obsolescence, sales ratio studies, personal property valuation techniques, and more are also needed to adequately perform assessment reviews.

#### ALTERNATIVES

It has been argued that as long as assessment administration remains a joint undertaking between local and state authorities, a two-level review system is needed. At the local level, there must be competent agencies that can deal fairly and expeditiously with routine and less abstruse problems; at the state level, an independent, impartial, and professionally qualified appeal agency is needed.

Appeals from the state agency to the courts would be limited to problems of law. Questions of value would be reviewed. In 1987, a Connecticut appeals board for property valuation was instituted by

legislation, but was never funded by the General Assembly. In subsequent years implementation was postponed; then, in 1995, the "paper" appeals board was abolished (PA 95-283). A state appeals board may be necessary in the future, but until then, a significant change in the 300-year-old tradition of conducting assessment appeals at the local level is unlikely.

A second possibility for enhancing the board's competency is certification. The Connecticut General Assembly passed certification for assessors in 1974, after several unsuccessful attempts. Today, more than 350 assessment personnel from all the cities and towns have been certified by the Certified Connecticut Municipal Assessor Committee, which administers the training program associated with the designation. Starting with the 2000 Grand List, the assessor who signs the Grand List must be certified (S12-55).

Assessment administration has become a full-time activity. At the same time, the review function is still a part-time pursuit performed by lay people who are essentially volunteers. It may be unrealistic, then, to expect them to go through the extensive certification process.

#### PRESENT OPPORTUNITIES

Meanwhile, Boards of Assessment Appeals now have the same educational outlets as assessors. Assessors have taken many steps to gain specialized knowledge vital to their exacting profession. Meetings of professional organizations such as the Connecticut Association of Assessing Officers and the International Association of Assessing Officers give them the opportunity to meet and discuss issues, as well as to hear talks by leaders in the field.

The annual, weeklong School for Connecticut Assessors and Boards of Assessment Appeals, conducted by the Center of Continuing Studies at the University of Connecticut provides courses for new and experienced assessors alike. Introductory classes provide a background in assessment practices. Advanced courses, designed for individuals with years of service, impart new and improved methods of assessing.<sup>63</sup> In addition, the assessors make use of the *Handbook for Connecticut Assessors*, a practical guide which serves as a text on assessment procedures and laws.

Because they work closely with assessors, all of these instructional vehicles are also open to Board of Assessment Appeals members. The fact that their work is part-time gives them the time to expand their

knowledge, so they can properly carry out their statutory duties.

Boards of Assessment Appeals are an integral link in the chain of assessment reform. Members who tap into the educational opportunities now offered, and become fully informed on assessment procedures- without preempting the assessor's role in establishing assessed values- can better serve their communities, lending the kind of assessment review that leads to equitable assessments.

Many board members have sought to educate themselves, while filling municipal positions that offer little in the way of reward. This is truly a tribute to the strength of local self-improvement and local self-government.



## FOOTNOTES

1	Joseph A. Pranulis v. Town of Prospect et al, Mosswood Condominium Association vs. Board of Tax Review of the Town of Fairfield (June 11, 1980)
2	Connecticut's Tax System, Legislative Program Review & Investigation, 1/16/06
3	Municipal Fiscal Indicators, FY 2000-2004, State of CT, OPM
4	Handbook for Connecticut Assessors (Connecticut Association of Assessing Officers, Inc.) pgs 1-8
5	Section 12-63 General Statutes
6	Monroe v. New Canaan, 43 Conn. 309. See also Randell v. Bridgeport, 63 Conn. 321 (1899).
7	Ingrahm Co. V. Bristol, 144 Conn.374, 378. The case overrules Randell v. Bridgeport. The Ingraham decision was taken to the United States Supreme Court in January, 1960, but the high court denied the petition that it takes jurisdiction.
8	Handbook for Connecticut Assessors, p. 6-1
9	Handbook for Connecticut Assessors, p. 7-10
10	Section 12-111, General Statutes, as amended by Section 50 of PA 95-283
11	Section 12-113 General Statutes, as amended by Section 51
12	Section 117a, General Statutes, as amended by Section 17
13	Bridgeport Hydraulic v. Stratford, 139 Conn 388 (1953)
14	Resnick v. New Haven, 12 Conn. Supp. 47 (1943)
15	Power v. Old Saybrook, 12 Conn. Supp. 382 (1944)
16	Stamford Gas & Electric Co. v. Stamford, 6 Conn. Supp.505 (1938)
17	Burnitt Mutual Savings Bank v. New Britain, 146 Conn. 669, at 674, 675 (1959). See also Bugbee v. Putnam, 90 Conn. 154 (1916)
18	Section 12-62, as amended by Public Act 06-148 An Act Concerning Property Revaluations
19	State ex rel. COE v. Fyler 48 Conn. 145 (1880). Moreover municipalities do not have the power to release a taxpayer from a portion of the tax if he is able to pay. See Bridgeport Brass Co. v. Drew 102 Conn. 206 (1925)
20	State ex rel. Waterbury Corrugated Container Co. v. Kilduff, 128 Conn. 647(1942)
21	Cooley Chevrolet Co. v. West Haven, 146 Conn. 165 (1959).

22	Pitt v. Stamford, 117 Conn. 388 (1933)
23	Phelp v. Thurston, 47 Conn. (1880)
24	Underwood Typewriter Co. v. Hartford, 99 Conn. 329 (1923)
25	Ives v. Goshen, 65 Conn. 456 (1895)
26	Slosberg v. Norwich, 115 Conn. 578 (1932)
27	Atchison v. Newtown, 2 Conn. Sup. 142 (1935)
28	Morris v. New Haven, 77 Conn. 107 (1904)
29	Stanford's Appeal, 75 Conn. 590 (1903)
30	Bugbee v. Putnam, 90 Conn.154 (1916)
31	Wilcox v. Madison, 103 Conn. 149 (1925)
32	Wilcox v. Madison, 103 Conn. 149 (1925)
33	Comstock v. Waterford, 65 Conn. 6 (1911)
34	Stanford's Appeal, 75 Conn. 590 (1903)
35	Requisites of a valid notice of intended additions are given in Whittlesey v. Clinton, 14 Conn. 72 (1940)
36	State ex rel Foote v. Barthlolomew, 103 Conn. 607 (1925)
37	Montgomery v. Branford, 107 Conn. 697 (1928)
38	Bridgeport Brass Co. v. Drew, 102 Conn. 205 (1925).
39	Reconstruction Finance Corp. v. Naugatuck, 136 Conn. 29 (1949)
40	Bridgeport Brass Co. v. Drew, 102 Conn. 206 (1925).
41	Failure of the Board to announce its decision does not constitute a failure to complete its duties within the prescribed time. Stanford's Appeal, 75 Conn. 590 (1903)
42	Section 12-117 as amended by Subsection (b) of S12-117
43	Section 12-62, as amended by Public Act 06-148 An Act Concerning Property Revaluations
44	Shareholders in one company affected by the ruling of the same board may join in an appeal. Barrett et al. Appeal, 73 Conn. 288 (1900)

45	The State Supreme Court states that the powers given to the court are broad and not limited merely to determining whether the Board of Assessment Appeals acted illegally, or arbitrarily, or in abuse of its discretion. <i>Edgewood School v. Greenwood</i> , 131 Conn. 179 (1944). When the court has no jurisdiction to hear an appeal is described in <i>Power v. Old Saybrook</i> , 12 Conn. Sup. 382 (1944)
46	State commissioners, letter, June 15, 1964
47	<i>Bridgeport Brass Co. v. Edward A. Drew, Tax Collector</i> , 102 Conn. 206 (1925)
48	The town or city should be cited in all appeals from the board. <i>Montgomery v. Branford</i> 107 Conn. 697 (1928)
49	<i>Morris v. New Haven</i> , 78 Conn. (1906)
50	<i>Cheney v. Essex</i> , 83 Conn. 493 (1910)
51	<i>Randall v. Bridgeport</i> , 64 Conn. 321 (1893)
52	<i>Greenwoods Co. v. New Hartford</i> , 65 Conn. 461 (1895)
53	<i>Hartford v. Hills</i> , 72 Conn. 599 (1900)
54	Bill of costs for fees and court costs paid. S37-3a, S52-257 CGS & Practice Book S18-5
55	<i>Steiger, Inc. v. Hartford</i> , 8 Conn. Sup. 295 (1940)
56	<i>McCot v. Anemostat Corp. of America</i> , 25 Conn. Sup. 462 (1965)
57	<i>Verran Co. v. Stamford</i> , 108 Conn. 47 (1928)
58	<i>Ireland v. Wethersfield</i> 242 Conn. 550, 559 (1997)
59	Cited in <i>Fedus v. Colchester</i> , 04-CBAR 75
60	<i>Daggett v. Colchester</i> , 104-CBAR-0274
61	<i>United Technologies Corp. v. East Windsor</i> , 262 Conn.11,22 (2002)
62	<i>National Amusements Inc V. Town of East Windsor</i> , Superior Court, judicial district of New Britain, Docket No. CV 00-0503380 (Aronson, JTR, February 10, 2003)(34 Conn. L. Rptr.84. Judge Aronson cites in many of his opinions the Appraisal Institute's publication referencing principles of appraising property from, <i>The Appraisal of Real Estate</i> , 10 <sup>th</sup> Ed. 1992.
63	In 2006, the school celebrated its 62nd year, the longest continuous school for assessment officials in the United States.

## APPENDIX A

### Dates of importance to the Board of Assessment Appeals

Dates in parenthesis apply when extensions are granted for 1 month or 2 months.

#### *January 1-31*

Notice to Town Clerk of regular meetings of the Board of Assessment Appeals (S12-21).

#### *January 31, (February 28), (March 31)*

Assessors end their duties and lodge the Grand List in the Office of the Assessor (S12-55). Assessor's power to alter lists under this section ceases when the Grand List is filed (S12-117).

#### *February 1-20, (March 1-20), April (1-20)*

Petitions for assessment appeals are accepted (S12-111).

#### *February 21-March 1, (March 21-April 1), (April 21-May 1)*

Taxpayers who filed petitions are notified by the Board of Assessment Appeals of the time and location of their hearings or reason for denial of their petition. Taxpayers must receive notice at least 7 days prior to their hearing (S12-111).

#### *Month of March, (April), (May)*

Boards of Assessment Appeals hearings are held (S12-110).

#### *During March, (April), (May)*

Board of Assessment Appeals may request an extension of time for completion of duties. Request is made to the Chief Executive Officer. The Chief Executive Officer must send a copy of the extension approval to the Secretary of Office of Policy and Management within 2 weeks.

#### *During March, (April), (May)*

Board of Assessment Appeals sends notice to taxpayer at least 1 week prior to increasing an assessment or adding to the Grand List, requesting the taxpayer to appear before the Board to show cause why increase or addition should not be made (S12-111).

#### *Last business day of March, (April), (May)*

Board of Assessment Appeals completes its duties. Notices must be sent to all persons who appealed their

assessment of the final determination of the appeals within 1 week of decision (S12-111).

*April 1-June 30, (May 1-July 31), (June 1-August 31)*  
Board of Assessment Appeals prepares supplemental list of any taxable property which has been omitted by the Assessor or Board of Assessors (S12-115)

#### *By April 7, (May 7), (June 7)*

Notices of the final determination of appeals must be received by all persons who appealed their assessment (S12-111).

#### *May 1, (June 1), (July 1)*

Assessor sends abstract of assessment lists to the Secretary of the Office of Policy and Management (S12-120).

#### *June 21, (July 21), (August 21)*

Board of Assessment Appeals sends notice 1 week after completion of supplemental list, requesting taxpayer to appear before the Board for a hearing to show cause why increase or addition should not be made (S12-115).

#### *During August, at least 10 days prior to the first meeting date*

Notice of the time and place of the first meeting of the Board of Assessment Appeals is published in a local newspaper.

#### *Month of September*

Board of Assessment Appeals meets at least once to hear motor vehicle appeals.



## APPENDIX B

### FORMS FOR THE BOARD OF ASSESSMENT APPEALS

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**PETITION TO THE**  
**BOARD OF ASSESSMENT APPEALS**  
**TOWN OF \_\_\_\_\_**

*Must be filed by February 20<sup>th</sup> annually*

By the authority of Public Act 95-283, of the State of Connecticut, please print or type the following information about each property appealed.

GRAND LIST OF OCTOBER 1, 20\_\_\_\_\_

PROPERTY OWNERS NAME: \_\_\_\_\_

APPELLANT'S NAME: \_\_\_\_\_

PROPERTY LOCATION: \_\_\_\_\_

MAP/LOT: \_\_\_\_\_ ACCOUNT# \_\_\_\_\_

PROPERTY TYPE: \_\_\_\_\_

REASON FOR APPEAL: \_\_\_\_\_

APPELLANT'S ESTIMATE OF VALUE: \_\_\_\_\_

---

Name, address, and phone number of party to be sent correspondence:

---

\_\_\_\_\_  
Signature of property owner or duly authorized agent  
(Attach proof of authorization)

\_\_\_\_\_  
DATE

**ALL SECTIONS MUST BE COMPLETED IN ORDER TO BE GIVEN A HEARING.**  
**(CALL ASSESSORS OFFICE IF FUTURE INFORMATION IS REQUIRED)**

**THIS FORM MUST BE FILED BY FEBRUARY 20<sup>TH</sup> AND RETURNED TO:**

Board of Assessment Appeals

Street \_\_\_\_\_

City, ST, Zip \_\_\_\_\_

DATE OF HEARING: \_\_\_\_\_ TIME: \_\_\_\_\_

PLACE: \_\_\_\_\_

---

**AGENT'S CERITIFICATION**

DATE: \_\_\_\_\_

To Whom It May Concern: I, \_\_\_\_\_being the legal owner of property

located at \_\_\_\_\_

hereby authorize \_\_\_\_\_

to act as my agent in all matters before the Board of Assessment Appeals

of the Town/City of \_\_\_\_\_

for the assessment year commencing October 1, \_\_\_\_\_

(Signed) \_\_\_\_\_



**TOWN OF Anytown**  
***Board of Assessment Appeals***

Street

City, St Zip  
(Phone) (Fax)

**Notice of Denial of Petition**

Taxpayer Name  
Taxpayer Street  
Taxpayer City, State, Zip

Your application for the Board of Assessment Appeals has been denied for the following reasons:

- The petition is incomplete
- No reason for appeal was stated.
- There is no estimated value indicated.
- Property is commercial, industrial, utility, or an apartment with an assessment greater than \$1,000,000.

Appeals from the action of the Board of Assessment Appeals are to be filed with the Superior Court within two (2) months of the Board's action.

John Doe  
Chairman

Town Of Anytown  
BOARD OF ASSESSMENT APPEALS

NOTICE OF TIME AND PLACE OF HEARING

Name: \_\_\_\_\_

Your appointment with the Board of Assessment Appeals is scheduled for:

March, (April), (May) \_\_, 20xx at: \_\_\_\_\_

Meetings will be held at \_\_\_\_\_.

Please confirm this appointment by calling \_\_\_\_\_.

## Oath

An oath is to be delivered to each aggrieved taxpayer or their agent when they appear before the Board of Assessment Appeals. Attorneys, who are officers of the court, do not need to be sworn in.

“Do you solemnly swear or solemnly and sincerely affirm, as the case may be, that the evidence you shall give concerning this case shall be the truth, the whole truth, and nothing but the truth; so help you God or upon penalty of perjury”

Per Public Act 02-71 An Act concerning Statutory Oaths  
Section 2 amends #1-25

**BOARD OF ASSESSMENT APPEALS MINUTES**

**TOWN OF \_\_\_\_\_**

DATE: \_\_\_\_\_

Called to order at (time) \_\_\_\_\_ by \_\_\_\_\_ Chairman.

Members present: \_\_\_\_\_

---

The minutes of the last meeting were read. A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to accept the minutes as presented. Motion passed.

**OLD AND NEW BUSINESS**

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_

---

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_

---

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_

**CONTINUATION SHEET**

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_

---

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_

---

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_

---

APPEAL OF: \_\_\_\_\_ ADJUSTMENT: (+ / - )\$ \_\_\_\_\_

REASON: \_\_\_\_\_

Members in favor: \_\_\_\_\_

Members opposed: \_\_\_\_\_



LEGAL NOTICE

SEPTEMBER MEETING

BOARD OF ASSESSMENT APPEALS

TOWN OF \_\_\_\_\_

All owners of motor vehicles registered in the town of \_\_\_\_\_ are hereby warned that the Board of Assessment Appeals of the Town of \_\_\_\_\_ will meet in open session at (place) \_\_\_\_\_ on (date) \_\_\_\_\_ from (time) \_\_\_\_\_ for the sole purpose of hearing appeals related to the assessment of motor vehicles.

All persons claiming to be aggrieved by the doings of the assessor of the Town of \_\_\_\_\_

With regard to motor vehicles assessment on the Grand list of October 1, \_\_\_\_ are hereby warned to make their appeal to the Board of Assessment Appeals at this meeting.

BOARD OF ASSESSMENT APPEALS

\_\_\_\_\_. Chairman





## APPENDIX C

The judicial process is a dynamic one. Decisions of a court may be appealed to a higher court and overturned and the validity of the decision may be altered by new findings in later cases. Therefore, the following summary of cases should not be considered an authoritative listing. The current case law documented in *Connecticut Reports* should always be consulted.

### Abbreviations:

**Conn.** Refers to *Connecticut Reports*, the official set of volumes where opinions of the Connecticut Supreme Court are cited. This set may be found in many academic libraries throughout Connecticut

**Conn. Sup.** Refers to *Connecticut Supplement* (of the Superior Court and Court of Common Pleas)

**Op. Atty. Gen.** refers to Opinions of the Attorney General, found in the Connecticut Law Journal

### GLOSSARY OF LEGAL TERMS

*Black's Law Dictionary* and *Introduction to Paralegalism* are excellent references for becoming more familiar with legal terms and the process of legal research.

**Ad Valorem:** According to the value of something

**Declaratory Judgment:** A court ruling which establishes the rights and responsibilities of the parties involved, but does not order them to do anything.

**Defendant:** The party being sued or against whom the case is brought

**De Novo:** Begin again or start over

**Ex Parte:** A case involving only one party

**Holding:** A court's ruling on a legal issue or matter of law

**Injunction:** An order of the court to command or prevent an action

**Market Value:** The most probable price which a property should bring in a competitive and open market under conditions requisite to a fair sale such as: Buyer and seller are motivated, both parties are well informed and are acting in their best interests, reasonable time is allowed for exposure in the open market, payment is made in terms of cash or comparable financial arrangement and the price represents normal consideration for the property sold

without special or creative financing or sales concessions.

**Plaintiff:** The party initiating a civil lawsuit

**Remand:** To send back to a lower court or order a lower court to review according to directions.

**State Ex Rel:** A legal proceeding instituted by the Attorney General on behalf of the state, but on the information and instigation of an individual who has a private interest in the matter.

**Summary Judgment:** Usually in the form of a request by a party that a decision be reached without going through a trial, because the material facts are not disputed

**Supra:** In a document, that which is mentioned above

**Vacate:** To annul, put to an end or terminate.

### LOCATING A SPECIFIC CASE

As an example: *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969)  
*Hartford Hospital v. Board of Tax Review of City of Hartford* is the plaintiff

158 Conn. is the volume of *Connecticut Reports*

138 is the page number in Connecticut Reports where the Hartford Hospital case begins.

1969 is the year that the opinion was given.

### ADDITIONS TO THE TAX LIST

Superior Court may add to the list of taxable property omitted. *Cheney v. Essex*, 83 Conn. 493 (1910).

Adding property to the list of one taxpayer is not invalidated by the fact that it is erased from a list of another taxpayer who did not appear before the Board. *Sanford's Appeal*, 75 Conn. 590 (1903).

Addition without indicating property held legal. *Lewis v. Eastford*, 44 Conn. 477 (1877)

Requisites of valid notice of intended additions. *Sanford v. Dick*, 15 Conn. 447 (1843); *Whittelsey v. Clinton*, 14 Conn. 72 (1840).

### APPEALS TO THE BOARD OF ASSESSMENT APPEALS

The Board of Tax Review had received approximately 5,000 appeals instead of the normal 250 to 300, after the Grand List was filed, and all but 100 to 150 involved assessments upon residential property. The Board sought to determine whether the burden of taxation had been unfairly shifted to residential

properties. The work of person hired to review the valuations of commercial and industrial properties had reasonable relationship to the function of the Board in equalizing tax assessments. *Chamber of Commerce of Greater Waterbury, Inc v. Lanese* 439 A.2d 1043, 184 Conn. 326 (1981).

Before the limitation period for filing an appeal could begin, the Board of Tax Appeals had to send notice of the Board's decision in the appeal of an assessment for property taxes to the property owner's agent who had been appointed to represent the property owner before the Board, and who had specifically requested that the Board send notice of its decision to the agent, despite the Board's argument that the property owner's address was the exclusive mailing address for notice of its decision. *Trap Falls Realty Holding Ltd. Partnership v. Board of Tax Review of City of Shelton* (1992) 612 A.2d 814, 29 Conn. App. 97, certification denied 617 A.2d 170, 224 Conn. 911.

Taxpayers have two primary methods of challenging a town's assessment or revaluation of their personal property:

1. The aggrieved taxpayer may appeal to the town's Board of Assessment Appeals and then appeal an adverse decision of that Board to Superior Court and,
2. The taxpayer may prior to payment of tax, make an application for relief to Superior Court.

*Interlude Inc. V. Skurat* (1999) 734 A.2d 1045, 54 Conn. App. 284. Certification granted in part 738 A.2d 657, 250 Conn.927.

If an owner of properties at the time of assessment wanted to challenge the assessment, the owner is required to follow the appropriate statutory procedures either by:

1. Timely appealing the assessment to the city's Board of Assessment Appeals and from there to timely appealing to the trial court or:
2. Timely bringing direct action. Taxes that have not been timely challenged cannot be the subject to perpetual litigation at any time to suit the convenience of taxpayers.

A taxpayer who has not sought redress in the appropriate manner is foreclosed from continuing litigation outside of those statutes. *City of Danbury v. Dana Inv. Corporation /Lot no. G08065* (1999) 730 A.2d 1128, 249 Conn.1

Although hospitals are not mentioned in the statute governing appeal by certain organizations from the action of the Board of Assessment Appeals, they may appeal under general provisions governing appeals to the Boards of Tax Review. *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

An appeal to the Board of [Tax Review] is designed to act directly on the valuations of property on the Grand List. An Appeal under Statute S12-119, [remedy when property is wrongfully assessed] is directed to relief against the collection of an illegal tax. *State ex rel. Waterbury Corrugated Container Co. v. Kilduff*, 128 Conn. 647 (1942). Grounds for appeal reviewed. *Stamford Gas & Electric Co. v. Stamford*, 6 Conn. Sup. 505 (1938).

It is improper to test the amount of assessment in an action to collect unpaid taxes. *West Haven v. Aimes*, 4 Conn. Sup. 391 (1937).

Yale University had the right to appeal to the Board of Assessment Appeals from the action of the assessor who added certain premises to the university's tax list. *Yale University v. City of New Haven*, 363 A.2d 1108, 169 Conn. 454 (1975).

The city's Board of Assessment Appeals, to which appeals from the action of the assessor may be taken, also has the power to unilaterally equalize and adjust valuations and assessment lists submitted by the assessor. *Albert Brothers, Inc. v. City of Waterbury*, 485 A.2d 1289, 195 Conn. 48 (1985)

## **APPEARANCE BEFORE THE BOARD**

Failure to appear and be sworn before the Board is not sufficient to prevent hearing an appeal; this may affect relief by the court. *Atchison v. Newtown*, 2 Conn. Sup.142 (1935).

Adding property to the list of one taxpayer is not invalidated by the fact that it is erased from the list of another who did not appear before the Board. *Sanford's Appeal*, 75 Conn. 590 (1903).

A taxpayer, who hired a non-attorney appraiser to challenge the town's assessment of the taxpayer's real property, was not barred from bringing a property tax appeal on the grounds that the taxpayer entered into an illegal contract for prosecution of cause of action. The alleged validity of the contract between the taxpayer and the appraiser was irrelevant to the taxpayer's right to appeal and even assuming that the appraiser's activities needed to be deterred on the grounds that the appraiser's actions were an unauthorized practice of law, barring the taxpayer's

tax appeal was an inappropriate means to that end. *Robertson v. Town of Stonington*, 750 A.2d 460, 253 Conn. 255. (2000).

## ASSESSMENT POWERS OF MUNICIPALITIES

An assessor has the implied authority, incident to an audit, to revalue and reassess property for tax purposes that was listed and valued on a Grand List filed within the previous three years. *United Illuminating Company v. City of New Haven et. al.* 204 Conn. 422 (1977).

A sewer assessment against the state, as property owner, cannot be made by a municipality unless it has specific statutory authority to make such an assessment 32 Op. Atty. Gen. 204 (1962), 24 CW No. 1 p 8.

Powers concerning valuation and revaluation of property are vested exclusively in the Boards of Assessors and Tax Review; Selectmen may not legally call a town meeting to adjust valuation rates. *Willis v. Sauer*, 19 Conn. Sup. 215 (1954).

A municipal corporation may not reduce a list after a revision by the Board on appeal. *Bridgeport Brass Co. v. Drew*, 102 Conn. 206 (1925).

The Board only, and not the inhabitants in a town meeting, can review the work of the assessors. State ex rel. *Coe v. Fyler*, 48 Conn. 145 (1880).

## ASSESSORS

An assessor, in a town where a New York company was engaged in highway construction, filed a tax list for the corporation based on information obtained from documents on file in the town clerk's office, because the corporation refused to file a list. The corporation had the burden of proving that the property was not taxable in that town when applying for relief against allegedly wrongful assessment of taxes. *Curly Construction Co. V. Town of Darien*, 147 Conn. 308 (1960).

Acquiescence of the Board in an erroneous action of the assessors as to listing of property is not a good defense to an action of mandamus to compel assessors to make a proper list. State ex rel. *Foote v. Bartholome*, 108 Conn. 246 (1928). Cited. *Mead v. Greenwich*, 131 Conn. 273 (1944); *Cohn v. Hartford*, 130 Conn. 699 (1944); *West Haven v. Aimes*, 123 Conn. 543 (1938); *Pitt v. Stamford*, 6 Conn. 388 (1933).

Assessors may be compelled by mandamus to list property omitted by a taxpayer. *State v. Erickson*, 104 Conn. 542 (1926).

## CLASSIFICATION OF PROPERTY

The legislative purpose in the definition of farm land is sufficiently broad to include nurseries. *Johnson v. Board of Tax Review of Town of Fairfield* 16 Conn. 71. (1970).

The legislature's intention in enacting Section 12-107a of the General Statutes, basing taxes on farm land upon current use value and basing taxes on all other property upon actual value, was to grant special privilege to land devoted to agricultural use. *Bussa v. Town of Glastonbury*, 20 Conn. Sup. 97 (1968) 251 A.2d 87(1968).

Under the statute which provides that the value of the land classified as open space shall be based upon its current use, notwithstanding the fact that the town assessor used a capitalization of earnings approach in assessing the current use value of the land in the town which was designated as "farm land" and "forest land". The town assessor correctly used a combination of comparable sales and costs of improvement methods to arrive at the current value of open space land which was developed and operational as an 18-hole public golf course containing fairways, greens and rough area. *Rustici v. Town of Stonington*. 382 A.2d 532, 174 Conn. 10 (1977).

## COURT APPEALS

### Burden of Proof

Without a substantive foundation for an appraiser's opinion as to value, the court should give deference to the valuation arrived at by the Board of Assessment Appeals or their assessor. *Ireland v. Wethersfield*, 242 Conn. 550, 559 (1997).

The town is not required to offer an appraisal in support of its valuation. *Ireland v. Wethersfield*, 242 Conn. 550, 559 (1997).

It is basic to a tax appeal under S12-117 that the taxpayer bears the burden of establishing that the assessor over-assessed its property. *United Technologies Corp. v. East Windsor*, 262 Conn. 11, 22 (2002).

Burden of proof is on the appellants, *Barrett's Appeal*, 75 Conn. 280 (1902).

A taxpayer appealing to the Court of Common Pleas due to a Board of Tax Review refusal to reduce their property valuation has the burden to satisfy the Court of Common Pleas that the assessors' valuation of land and buildings was not fair market value.

*Sheldon House Club, Inc v. Town of Branford*, 149 Conn. 28 (1961).

#### Powers of the Court

On appeal from action of the Board of Tax Review, the court performs a double function. First, it must determine the judicial question of whether the appellant has been aggrieved by the board which will result in payment of unjust and practically illegal tax. Secondly, if this question is answered in the affirmative, the court must exercise its discretionary power to grant relief. *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

The fact that the Board of Tax Review assumed jurisdiction of a hospital appeal from a tax assessment did not prejudice the hospital. The Board of Tax Review was not stopped from alleging that the Court of Common Pleas was without jurisdiction to entertain the plaintiff's appeal. *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

A hospital did not appeal to Court of Common Pleas a Board of Tax Review's 1965 rejection of appeal by hospital claiming an exemption. The Supreme Court assumed, in proceeding on appeal by hospital from Board action including property in city's 1966 list of taxable property, that Board's reason for refusing exemption was valid. *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

Mere overvaluation is sufficient to justify redress under the statutes which allow taxpayers to appeal decisions of municipal Boards of Assessment Appeals and the court is not limited to review of whether an assessment has been unreasonable or discriminatory or has resulted in substantial overvaluation. Statute 12-117a, which allows a taxpayer to appeal a Board of Assessment Appeals decision to Superior Court, provides a remedy only for an aggrieved taxpayer seeking to reduce his tax assessment. It provides no remedy for the municipality claimant to have undervalued a taxpayer's property. *Konover v. Town of West Hartford*, 699 A.2d 158, 242 Conn. 727.

A taxpayer claiming to be aggrieved by the action of the assessors in overvaluing his property may appeal to the Board of Tax Review and, if not satisfied with this action to the Court of Common Pleas, or he may bring an application to that court. *McCourt v. Anemostate Corp. of America*, 25 Conn. Sup. 462 (1965)

No remedy exists by appeal to courts from doings of assessors; appeal is limited to the actions by the Board. *Stamford Gas & Electric Co. v. Stamford*, 6 Conn. Sup. 505 (1938).

An appeal from the Board aims at rectifying an assessment grievance and not against the payment of a tax. *Steiger, Inc. v. Hartford*, 5 Conn. Sup. 467 (1937).

Town or city should be cited in all appeals from the Board. *Montgomery v. Branford*, 107 Conn. 697 (1928).

Voluntary payment of tax will result in dismissal of appeal. *Morris v. New Haven*, 78 Conn. 673 (1906).

Shareholders in one company who are affected by the ruling of the Board may join in the appeal. *Barrett In re Appeal of* 73 Conn. 288 (1900).

#### Who is Aggrieved?

The question as to whether or not an applicant for exemption has been aggrieved by the action of the Board of Tax Review is a judicial question and must be determined in the affirmative before the power to grant relief is called into action by the trial court. *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

A property owner who appeared before the Board of Tax Review and received an adverse decision was "aggrieved" and could properly appeal. *Lerner Shops of Connecticut, Inc v. Town of Waterbury*, 151 Conn. 79 (1963).

A taxpayer may properly be found to be an "aggrieved" person and as such be entitled to sue to protect his interest in any matter involving a municipality where his tax bill may be affected. *Yale University v. City of New Haven*, 22, Conn. Sup. 61 (1960)

A taxpayer is not aggrieved when the court finds that the property is assessed at its true and full value despite an error in the method of valuation. *Slosberg v. Norwich*, 115 Conn. 578 (1932)

One, upon whose property the assessor put an excessive valuation, which the Board refuses to reduce, is aggrieved. *Underwood Typewriter Co. v. Hartford*, 99 Conn. 329 (1923).

Taxpayer is not aggrieved unless the improper listing of his own or another person's property increases his tax. *Ives v. Goshen*, 65 Conn. 456 (1895).

## **ERRORS AND OMISSIONS**

Clerical omissions or mistakes do not include errors of substance. *Reconstruction Finance Corp. v. Naugatuck*, 136 Conn. 29 (1949).

Assessors may be compelled by mandamus to list property omitted by the taxpayer. *State v. Erickson*, 104 Conn. 542 (1926).

Omissions and mistakes in assessments can be taken advantage of only by those in whose lists they occur. *Sanford v. Dick*, 15 Conn. 447 (1843).

Indication on individual assessment cards that all six apartment buildings had basements, when in fact, only two had full basements and one had a half basement, did not give rise to a “clerical error” in assessment of real estate taxes that could be corrected at any time, given the assessor’s testimony regarding the method of assessment, including his statement that he had included the basement value for each building on purpose. Where the error in tax assessment is of deliberate nature such that the party making it at the time actually intended the result that occurred, it cannot be said to be a “clerical error” that can be corrected at any time. *Chapman v. Town of Ellington* (1993) 635 A.2d 830, 33 Conn. App. 270.

The plaintiff listed on its property tax return, certain computer equipment which it leased from the owner, and the taxpayer paid such taxes under the mistaken belief that it actually owed the taxes. Such action, although mistaken, was deliberate and intentional, and was not “clerical” and could only be characterized as an error of substance. Thus the statute providing a remedy for “any clerical omission or mistake in the assessment of taxes” was not applicable. *National CSS, Inc. v. City of Stamford* (1985) 489 A.2d 1034, 195 Conn. 587.

## **EXEMPTION FROM TAXATION**

General Statutes, which exempt from taxation, are to be strictly construed against party claiming exemption. *Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

Exemption from taxation is equivalent of appropriation of public funds because the burden of the tax is lifted from the back of the potential taxpayer who is exempted, and shifted to the backs of others. *Snyder v. Town of Newtown*, 147 Conn. 374 (1960).

### **Educational Institutions**

The statutory requirement that educational property, exempt from property taxes be used exclusively for carrying out educational purposes, can be satisfied by the use of the property that is incidental

to education. *Loomis Institute v. Town of Windsor*, 661 A.2d 1001, 234 Conn. 169 (1995).

### **Farm Machinery**

When a corporation’s principal income was from the operation of a loam and gravel business, which was found not to be a farming operation, the corporation is not qualified for benefits of a tax exemption on its machinery. *Hollowy Bros., Inc. v. Town of Avon*, 26 Conn. Sup. 160 (1965).

### **Government Property**

The federal government, not the manufacturer, was the “owner” of materials and tools on the premises of the manufacturer, whose contract provided for transference of title to the government. Such property is not taxable under S12-58 of the General Statutes, but was exempt under S12-81, relating to taxation of property belonging to or held in trust for the United States. *Consolidated Diesel Electric Corp. v. City of Stamford*, 238 A.2d 410 (1968).

Even though the party is an admitted municipal corporation, its properties are not exempt from taxation unless they are devoted to public use. Properties belonging to a specially chartered municipal corporation, which are used by members or their invitees, are not entitled to a tax exemption. *Laurel Beach Association v. Town of Milford*, 148 Conn. 233.

Airport property owned by a municipality, but located in another town is exempt from taxation if the town in which the airport lies has the same privileges in using it as the municipality owning it and if the airport is not used in such a manner as to become a source of profit in its operations which must be determined annually. The true test is whether the airport is being operated for the purpose of making money. *Bridgeport v. Stratford*, 142 Conn. 634 (1955)

National banks are agencies of the United States; their property and shares cannot be taxed by the state except as Congress consents. *First National Bank & Trust Co. v. West Haven*, 135 Conn. 191 (1948).

Political and territorial subdivisions of a town are entitled to exemption from taxation under provisions of law exempting property belonging to a municipal corporation and used for a public purpose. *Fenwick v. Old Saybrook*, 133 Conn. 22 (1946).

### **Hospitals & Charitable Organizations**

A hospital had the burden to file a tax report, prior to July 1, 1966, for property it claimed to be exempt in order to establish its right to exemption. The exemption was denied the previous year. When

the hospital failed to file the report, the assessor had no alternative but to continue the property on the tax list. The hospital, which had been denied a tax exemption in 1965 and did not file a report claiming an exemption in 1966, was not aggrieved by actions of the assessor and Board of Tax Review by including the property in the city's list of taxable property.

*Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

It was not intended that the hospital, without claiming exemption by filing a tax report with the assessor in succeeding year after its claimed exemption was denied, be entitled to an exemption, in lieu of an appeal to the Board of Tax review and to the Court of Common Pleas. Nor was it intended that the hospital, which acquired property, otherwise exempt, after filing its quadrennial report would be precluded from claiming an exemption for a period of almost four years.

*Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

Section 12-81 of the General Statutes requires that a statement be filed in order to qualify for a property tax exemption, and empowers assessors to examine the tax exempt status of scientific and other organizations in order to determine exemption eligibility. They do not apply to the provisions of S12-37 and S12-89, exempting property owned by hospitals from taxation.

*Hartford Hospital v. Board of Tax Review of City of Hartford*, 158 Conn. 138 (1969).

Charitable uses and purposes for tax exemption are not restricted to mere relief of the destitute or the giving of alms. They comprehend activities not in themselves self-supporting but are intended to improve the physical, mental, and moral condition of the recipients and make it less likely that they will become burdens on society, and embrace anything that tends to promote the well-doing and well-being of social man. *Camp Isabella Freedman of Conn., Inc v. Town of Canaan*, 147 Conn. 510 (1960).

Tax exemption of charitable organizations is not restricted to property used for the benefit of state residents. *Camp Isabella Freedman of Conn., Inc v. Town of Canaan*, 147 Conn. 510 (1960).

The law does not intend to exempt any building earning money applicable to secular uses. *Connecticut Spiritualistic Camp Meeting Association v. East Lyme*, 54 Conn. 152 (1886).

Veterans

Veterans who have suffered the loss of an arm or leg in military service, or that which is considered by the rules of the U. S. Pension Office or Bureau of War Risk Insurance as equivalent of such loss, and who have satisfied other requirements of the statute granting disabled veterans a property tax exemption, are entitled to a \$3,000 exemption regardless of the percentage of disability rating accorded to them *Morov v. Murray*, 24 Conn. Sup. 147 (1962).

For the purposes of applying tax exemptions provided for veterans under S12-81, qualified taxpayers do not have the right to compel assessors to apply the amount of the exemption to either real or personal property. Assessors are empowered to exercise their discretion as public officers. 21 Op. Atty. Gen. 12 (1958)

#### Location of Property

In view of evidence that a vessel owned by a corporation was not located in either Hartford, where the assessment was made, or Essex, where the corporation claimed that it had situs (or location) of the vessel for at least seven months preceding the assessment date, the proper place of assessment was where the corporation's place of business was located or where it exercised its corporate powers as of the assessment date. *Riverboat, Inc., v. City of Hartford*, 26 Conn. Sup. 408 (1966).

The president and treasurer of the corporation owning a vessel had the authority to sign a tax assessment document on behalf of the corporation. The fact that it was not required to be signed in affidavit form did not vitiate its resulting effect on the plaintiff's tax status in regard to such property. *Riverboat, Inc., v. City of Hartford*, 26 Conn. Sup. 408 (1966).

The town's assessment of a corporation's electrical computer system, which was located in the town for more than seven months preceding the assessment date, but which was not located in the state on the assessment day, was valid. The jurisdictional basis for assessment was provided by opportunities given the corporation and the protection afforded its property by the town. *Philco Corp. v. Town of East Hartford*, 26, Conn. Sup. 196 (1965).

Under the statute providing for the taxation of corporate personal property, "permanency" of stay of corporate property in the state involves the concept of being associated with the general mass of property in the state as contrasted with a transient status, and

means a more or less permanent location for the time being, one test of whether the property in question is within the state for use and profit. *Philco Corp. v. Town of East Hartford*, 26 Conn. Sup. 196 (1965).

#### Non-residents

Non-residents whose personal property was wrongly assessed waive no right by neglect to apply to the Board. *New London v. Perkins*, 87 Conn. 229 (1913); *Lewis v. Eastford*, 44 Conn. 477 (1877); *Phelp v. Thurston* 47 Conn. 477 (1880)

### NOTICE OF HEARING

Provisions for the notice of hearings are mandatory and constitute conditions precedent to a valid assessment. *Rocky Hill Incorporated District v. Rayon Corp.*, 122 Conn. 392 (1937). Cited. *Reconstruction Finance Corp. v. Naugatuck*, 136 Conn. 29 (1949); *Cohn v. Hartford*, 130 Conn. 699 (1944).

Appearance before the Board waives defect of notice. *Comstock v. Waterford*, 85 Conn. 6 (1911); *Sanford's Appeal*, 75 Conn. 59 (1903).

### PERSONAL PROPERTY LISTS

Foreign imports have a constitutional immunity from state taxation until they are sold, removed from their original package or put to the use for which they were imported, except that they are taxable if committed for use in manufacturing and are required for current operational needs This is measured by the length of time necessary to replenish the supply. *Emhart Corp. v. Town of West Hartford*, 28 Conn. Sup. 134 (1969).

An owner is entitled to tax relief if he or she could prove that his or her property was bearing a disproportionately high tax burden. *Lerner Shops of Connecticut, Inc. v. Town of Waterbury*, 151 Conn. 79 (1963).

The property of a domestic corporation is subject to listing and taxation in the same manner as the property of individuals. *Associated Grocers, Inc. v. City of New Haven*, 147 Conn. 287 (1960).

A taxpayer who failed to submit a complete list cannot complain if the assessors, acting in good faith, make an error of judgment in listing and valuing his property. *Ponemah Hills v. Lisbon*, 89 Conn. 435 (1915). Cited. *Coley Chevrolet Co. v. West Haven*, 146 Conn. 165 (1959).

An assessment is the total of all the taxable items. It does not follow that it is "manifestly excessive" because a single item is overvalued. *Steiger, Inc. v. Hartford*, 5 Conn. Sup. 467 (1937). Cited. *Samson v. Hartford*, 8 Conn. Sup. 540 (1940).

In computing the value of machinery and inventory, construction in progress is to be valued at half cost and machinery withdrawn from use for disposal valued at estimated salvage. *New Departure Division of General Motors Corp. v. Town and City of Bristol*, 25 Conn. Sup. 37 (1964).

Evidence established that the computation value of the taxpayer's machinery for personal property tax purposes by an artificial mathematical process which employed comparative equipment cost index, a method devised by a professional appraisal firm and adopted by the town assessors with adjustment for depreciation, resulted in an unjust and illegal assessment which had no relationship to market value. *New Departure Division of General Motors Corp. v. Town and City of Bristol*, 25 Conn. Sup. 37 (1964).

### RECOVERY OF TAXES

A manufacturing corporation relocating to another state on the taxing date, which failed to avail itself of relief from claimed excessive assessments by statutory remedy, could not defend a suit to collect taxes on the grounds that the property had been removed to another state, where it became liable to that state's taxes. *McCourt v. Anemostat Corp. of America*, 25 Conn. Sup. 462 (1965).

When a person pays taxes which are illegally assessed against him, whether paid by a compulsory process or not, he or she may recover the money. *McCourt v. Anemostat Corp. of America*, 25 Conn. Sup. 462 (1965).

When the plaintiff obtained all relief to which he was entitled, in a judgment rendered under a first count in his complaint, he would not be granted recovery under a second count, even if his pleadings and proof would have supported a judgment under the second count. *Lerner Shops of Connecticut, Inc. v. Town of Waterbury*, 151 Conn. 79 (1963).

The assessor's failure to list property in a manner conforming to statutes will result in an invalid assessment and prevent the recovery of taxes based on it. *Empire Estates, Inc. v. City of Stamford*, 147 Conn. 262.

If a property owner, with knowledge of the facts, pays taxes voluntarily, he cannot recover them even though they were in excess of what he should have been required to pay. *Pitt v. Stamford*, 117 Conn. 388 (1933). Cited. *Cohn v. Hartford*, 130 Conn. 699 (1944).

A taxpayer, with a pending application for relief, who pays the tax assessed, is entitled to the return of

any excess tax which he has paid, whether the payment was deemed voluntary or otherwise. The penalties and consequences imposed by law upon a non-paying taxpayer are such that it cannot be fairly be said that he who pays a tax to avoid their onerous results does so voluntarily. *Steiger, Inc. v. Hartford*, 8 Conn. Sup. 295 (1940).

Liability to pay interest does not make payment of tax involuntary and recovery of money so paid is not allowed. *Verran Co. v. Stamford*, 108 Conn. 47 (1928).

A property owner who voluntarily pays a tax cannot recover the amount paid even though the act under which the tax was laid turns out to be unconstitutional. However, if payment is made under protest and in order to avoid burdensome penalties prescribed by the act for its nonpayment, such payment is not voluntary but one made under moral duress. *Underwood Typewriter Co. v. Chamberlain*, 92 Conn. 199 (1917).

A tax illegally assessed in part is illegal in toto and if paid in full under duress, may be recovered. *First Ecclesiastic Society v. Hartford*, 38 Conn. 274 (1871).

## REVALUATION

If real estate is properly assessed on the first Grand List following a revaluation, variation in effect of market conditions on different parcels need not be reflected in subsequent assessments between revaluations. *Stop and Shop Companies, Inc. v. Town of East Haven* 554 A.2d 1055, 210 Conn. 233 (1989).

The use of the average ratio approach measuring assessed values against selling prices of property is not applicable to discrepancies in valuation of property which arise so long as the town's valuation established in 1971 fairly reflected 1971 values. Average ratio evidence was not used to remedy any discrepancies which may have occurred during the decade preceding the next valuation. *Uniroyal, Inc v. Board of Tax Review of Town of Middlebury* 438 A.2d 782, 182 Conn. 619 (1981).

Since the burden of proof in tax assessment appeals is on the taxpayer, the city had no obligation to plead a special defense that an interim evaluation of real property was unavailable to the taxpayer. Neither substantial change in the use of a property that had originally been used as a skilled nursing facility nor the decision of the taxpayer to go out of business, warranted an interim revaluation of property for tax purposes since the decision to go out of business,

which resulted in a new use, was a response to basic fluctuations in market conditions. *DeSena v. City of Waterbury* 721 A.2d 733 249 Conn. 63 (1999).

A taxpayer is not required to show special injury because a statutory property revaluation had not been made within a decade in order to be entitled to mandamus requiring revaluation, although the state's attorney could have, and probably should have, prosecuted the mandamus in his own name. State ex rel. *Eastern Color Printing Co. v. Jenks*, 150 Conn. 444 (1963).

S12-4 of the General Statutes, providing a procedure by which the State Tax Commissioner can compel a municipal tax official's compliance with the laws pertaining to the discharge of the office, does not provide an exclusive remedy precluding mandamus by the officers, but mandamus other than under statute is still available and could be maintained on relation to the taxpayer to compel the statutory revaluation. State ex rel. *Eastern Color Printing Co. v. Jenks*, 150 Conn. 444 (1963).

The West Hartford revaluation procedure, whereby a separate class of property is viewed, revalued, and recorded in the grand list in a single year, but all classes of property are viewed, revalued and recorded within a ten year period, is valid under S12-62. Op. Atty. Gen. (December 19, 1963), 25 CLJ no 09, p. 13.

S12-62, providing that assessors shall view and revalue all property in the municipality during each ten-year period, is mandatory. It calls upon them to perform ministerial acts in obedience to such mandate without regard to or exercise of their own judgment on the propriety of title acts being done. State ex rel. *Eastern Color Printing Co. v. Jenks*, 150 Conn. 444 (1963).

## RULES OF VALUATION

There are three accepted methods for valuation which may be used for the assessment of real property, those being the comparable sales approach, the income approach and the reproduction cost or cost approach. *Whitney Center, Inc v. Town of Hamden* (1985) 494 A.2d 624, 4 Conn. App. 426.

Everything that might legitimately affect the value of property must be considered in assessing property for tax purposes. *Chamber of Commerce of Greater Waterbury, Inc. v. City of Waterbury* (1981) 439 A.2d 1047, 184 Conn. 333.

In valuing real estate, the court values the property as a whole, not as separate components that



make up the property. The court rejected the plaintiff's claim that the court is limited to considering valuation of a portion of the property when that is all the plaintiff held in its complaint. The Supreme Court in *Konover v. Town of West Hartford*, 242 Conn. 727 (1997) concluded that the trial court could not exclude part of the taxpayer's property from consideration but must consider all of the property as a whole. "We have never held that a trial court in a de novo appeal pursuant to S12-117a may determine the value of only a portion of a taxpayer's property." The ultimate question in a S117a tax appeal is not the value of separate segments of the taxpayer's property but rather "the ascertainment of the true and actual value of the taxpayer's property." *National Amusement Inc v. Town of East Windsor* 24 Conn. 84 (2003)

The city's use of an independent appraisal firm to advise them on property assessments was not illegal. Proper deference must be given to the judgment and experience of assessors for the process of estimating the value of property for taxation is at best, one of approximation and judgment, and there is a margin for differences of opinion. *Connecticut Coke Co. v. City of New Haven* (1975) 364 A.2d 178, 169 Conn. 663.

For the purposes of real estate taxation, "fair market value" is generally said to be value that would be fixed in fair negotiations between a desirous buyer and a willing seller, neither under any undue compulsion to make a deal. *Uniroyal, Inc. v. Middlebury Board of Tax Review* 389 A.2d.734, 174 Conn. 380 (1978). See also *Bridgeport Hydraulic Co. v. Town of Stratford* 94A.2d 1, 139 Conn. 388 (1953); *Thaw v. Town of Fairfield* 43 A.2d 65, 132 Conn. 173 (1945); *Connecticut Savings Bank of New Haven v. City of New Haven* 41A.2d. 765, 131 Conn. 575 (1945).

Fair market value of property for tax purposes, regardless of the method of valuation, takes into account the highest and best value of land. *Metropolitan District v. Town of Burlington* 696 A.2d 969, 241 Conn. 382 (1997).

For tax assessment purposes, "fair market value" is the price that would probably result from fair negotiations between a willing seller and a willing buyer; fair market value means a value in a market, in a place or in conditions in which there are, or have been, or will be, willing sellers and able and ready buyers of property like that to be assessed, and in which sales are or have been made or may fairly be expected, in usual and natural way of business; actual

value, market value, or market price means the price of an article established by sales in the course of ordinary business. *Xerox Corp. v. Board of Tax Review of City of Hartford* 397 A.2d 1367, 175 Conn. 302 (1978).

In determining value of real property for tax purposes, the assessor must use the fair market value of real property. *Chapman v. Town of Ellington*, 635 A.2d. 830, 33 Conn. App 270 (1993).

A three-step procedure exists for carrying out the statutory mandate to tax all real estate at a uniform percent: a) Fair value of the property, as of the assessment date must be determined; b) a percent, not exceeding 100 percent of the fair value must be determined by the assessing authority for uniform application to all property within the town.; c) assessment value or the value for the purpose of taxation for any given piece of property in town, must be ascertained by applying the determined uniform percent to its fair value as of the assessment date. In a case regarding the valuation of condominiums, in valuing the subject's condominiums, the assessor did not violate statutory uniformity requirements by substituting his own values of comparable condominiums for those of the revaluation company that had valued the properties in the city before the subject condominiums had been built. *Torres v. City of Waterbury*, 733 A.2d 817, 249 Conn. 110 (1999).

When assessors adopt a rule of valuation conflicting with the statute, the remedy is by appeal to the Board of Tax Review. *Monroe v. New Canaan*, 43 Conn. 309 (1876)

#### Capitalization of Income

The use value of farm land for purposes of taxation should be determined by the capitalization of rents and the percentage normally used in determining the final tax assessment should be applied to the use value. *Bussa v. Town of Glastonbury*, 28 Conn. Sup. 97 (1968).

It is not erroneous to consider reproduction cost and capitalization of income as well as the actual sales price in determining the fair market value. *Connecticut Savings Bank v. New Haven*, 131 Conn. 575 (1945).

If the plaintiff's appraiser did a piecemeal appraisal, failed to use actual income and expense figures, and failed to use credible comparables to arrive at the value of the subject property, the court should not credit that testimony. *Daggatt v. Colchester*, 104-CBAR-0274.

## Market Value

Taxpayers have a burden to prove that the assessor's valuation was not the true and actual value of their property. Determination of the valuation of land is a question of fact for the trier of facts. *Dickau v. Town of Glastonbury*, 156 Conn. 437 (1968).

S12-62 does not apply unless there is no market. If no market exists, fair value must be ascertained otherwise. *Underwood Typewriter Co. v. Hartford*, 99 Conn. 329 (1923). Cited. *Ford v. Dubiskie & Co.* 105 Conn. 572 (1927) *Bridgeport Brass Co. v. Drew*, 102 Conn.206 (1925).

Where market value is not ascertainable, true and actual valuation must be determined by some other method. *Lomas & Nettleton Co. v. Waterbury* 122 Conn. 228 (1936).

Hydroelectric dams are not readily marketable as such, and, in ascertaining fair market value, it is proper to resort to other means of ascertaining true and natural valuation. *Connecticut Light & Power Co. v. Town of Monroe*, 149 Conn. 450 (1962).

For tax assessment purposes, the expressions, actual value, market value, market price, and fair value are synonymous. *Sheldon House Club, Inc v. Town of Branford*, 149 Conn. 28 (1961).

The Board of Assessors in assessing commercial real estate was found to have chosen an unrealistic annuity method of amortizing building costs, and to have made unwarranted assumptions concerning management costs, stability of expenses and income. *Burritt Mutual Savings Bank v. New Britain* 20 Conn. Sup. 476 (1958).

In determining market value, it is proper to consider all elements which an owner could reasonably urge as affecting the fair price including replacement costs when there are buildings. *Thaw v. Fairfield*, 132 Conn. 173 (1945)

If most recent sales in the same vicinity are of property held by a bank, they are not a fair criterion for fair market value. *Resnick v. New Haven*, 12 Conn. Sup. 47 (1943)

Cost of reproduction less depreciation is proper if there is no market value. *Ethington v. Stamford*, 11 Conn. Sup. 241 (1942)/

There is no other method legal for assessment if there is a market value. *Samson v. Hartford*, 8 Conn. Sup. 540 (1940).

Property may be found to have market value in the absence of evidence of other sales of like property in the open market. *Portland Silk Co. v. Middletown*, 125 Conn. 172 (1939).

Valuation, by an owner, placed in the tax list is not a bar to reduction by the court on appeal. *Crane Co. v. Bridgeport* 6 Conn. Sup. 203 (1938). Cited *Stamford Gas & Electric Co. V. Stamford*, 6 Conn. Sup. (1938).

The true measure of a loss to a landowner, when his property is taken for public use is the difference between the market value of the whole tract before the taking and the market value of what remained thereafter and after completion of the public improvement. *Hueblein Inc. v. Street Commissioners*, 109 Conn. 212 (1929).

## SUPPLEMENTAL LISTS

When mandamus was brought to compel the Board to add omitted property, the Board, in the exercise of honest discretion, held that the property not be taxable. State ex rel. *Foote v. Bartholomew*, 111 Conn. 427 (1930).

Assessors cannot defend mandamus on the grounds that the Board subsequently held property left out of the list not taxable. *Foote v. Bartholomew*, 108 Conn. 246 (1928).

The Board is not an agent of the town under the statute authorizing the supplemental list. Its duties are administrative. *Montgomery v. Branford*, 107 Conn. 697 (1928).

The performance of the duty to make a supplemental list may be compelled by mandamus. State ex rel. *Foote v. Bartholomew*, 103 Conn. 607 (1925).

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