

CV 12 6028137 : SUPERIOR COURT
ALAN M. REZNIK AND :
ELIZABETH KAYE REZNIK : JUDICIAL DISTRICT OF
v. : NEW BRITAIN
CITY OF MILFORD : AUGUST 3, 2015

MEMORANDUM OF DECISION ON
DEFENDANT’S MOTION TO COMPEL (#118)

The plaintiffs, Alan M. Reznik and Elizabeth Kaye Reznik, bring this real estate tax appeal against the city of Milford (city) seeking a reduction in their assessment. The city seeks to have its appraiser inspect the interior of the plaintiffs’ residence in order to prepare its defense of the plaintiffs’ appeal.

In objecting to the city’s motion to compel, the plaintiffs rely on General Statutes § 12-62 (a) (3) that provides, in relevant part, as follows:

“‘Full inspection’ or ‘fully inspect’ means to measure or verify the exterior dimensions of a building or structure and to enter and examine the interior of such building or structure in order to observe and record or verify the characteristics and conditions thereof, *provided permission to enter such interior is granted by the property owner or an adult occupant[.]*”

(Emphasis added.)

The plaintiffs' further argue that "[t]here is no statute within Chapter 203 ('Property Tax Assessment') of the Connecticut General Statutes that permits an assessor to force entry into the interior of a taxpayer's building or structure in order to conduct a revaluation of real property." (Plaintiffs' memorandum of law, dated July 7, 2015, p. 3.)

The city relies on Practice Book § 13-9 (a), which provides, in relevant part, as follows:

"[W]here the judicial authority finds it reasonably probable that evidence outside the record will be required, any party may serve in accordance with [Practice Book §§] 10-12 through 10-17 upon any other party a request . . . to permit entry upon designated land or other property for the purpose of inspection"

The issue here is whether a judicial authority may abrogate a legislative mandate that requires a taxpayer's consent to inspect the interior of his or her residence for the purpose of allowing an assessor to determine the value of the premises for tax purposes.

The Connecticut constitution, article first, § 7 provides: "The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrant to search any place . . . shall issue without . . . probable cause supported by oath or affirmation."

The fourth amendment to the United States constitution, similarly recites that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against

unreasonable searches . . . shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation”

Both the state and federal constitutions prohibit the unreasonable search of a person’s home, and if reasonable, requires that a warrant be obtained based upon probable cause.¹

In the present case, there is no specific authority for an assessor to enter into a person’s home without a warrant, except as claimed by the defendant referring to a Practice Book provision. More importantly, there is a legislative directive denying the right of the assessor to enter a home of a taxpayer unless the taxpayer consents to such intrusion.

Without a warrant issued upon probable cause, a taxpayer is within his or her right to oppose an assessor’s inspection of his or her home for assessment purposes.

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Under the fourth amendment of the U.S. constitution, the right of a person to be secure in his or her home cannot be violated and this constitutional right is applicable to the states through the fourteenth amendment. See, e.g., Maryland v. Pringle, 540 U.S. 366, 369, 124 S. Ct. 795, 157 L. Ed. 2d 769 (2003). For example, in Camara v. Municipal Court, 387 U.S. 523, 526, 87 S. Ct. 1727, 18 L. Ed. 2d 930 (1967), a tenant was prosecuted for refusing to allow a housing inspector to enter his apartment pursuant to a municipality’s Housing Code without a warrant. As noted in Camara, “*administrative searches* of the kind at issue here are significant intrusions upon the interests protected by the fourth amendment, that such searches when authorized and conducted without a warrant procedure lack the traditional safeguards which the fourth amendment guarantees to the individual” *Id.*, 534. (Emphasis added.)

Accordingly, the city's motion to compel and inspect the plaintiffs' residence is denied.

Arnold W. Aronson
Judge Trial Referee