

NO. HHB CV 13-6020784S : SUPERIOR COURT  
50 MORGAN CT, LLC : JUDICIAL DISTRICT OF  
v. : NEW BRITAIN  
CITY OF HARTFORD :  
NO. HHB CV 14-6026243S :  
50 MORGAN HOSPITALITY :  
GROUP, LLC. :  
v. :  
CITY OF HARTFORD :  
: OCTOBER 7, 2015

MEMORANDUM OF DECISION

In this consolidated appeal, the plaintiffs, 50 Morgan CT, LLC and 50 Morgan Hospitality Group, LLC, presently known as the Radisson Hotel (hotel), challenges the valuation by the assessor of the city of Hartford (city) for the hotel’s personal property on the Grand Lists of October 1, 2012 and 2013.<sup>1</sup> The city’s assessor valued the hotel’s personal property on the October 1, 2012 Grand List at \$1,276,986. One year later, on the October 1, 2013 Grand List, the assessor valued the subject property at \$1,401,757.

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“On September 26, 2013, 50 Morgan CT, LLC sold the property, including the Personal Property, to 50 Morgan Hospitality Group, LLC. . . . As the result of the change in ownership, 50 Morgan Hospitality Group, LLC became liable for taxes levied on the assessment of the Personal Property as it appears on the October 1, 2012 Grand List from September 26, 2013 through June 30, 2014. . . .” (Motion to Add Party Plaintiff, dated October 29, 2013.)

The subject hotel contains 350 guest rooms, with a lobby, kitchen, dining room, a bar, lounges, exercise room and an auditorium. In addition, the hotel provides surface parking as well as a two-story parking garage for its guests.

The hotel's appraiser, Steven Piletz (Piletz) concluded that the fair market value of the hotel's personal property, as of October 1, 2012, was \$282,800 and its fair market value in continued use was \$330,870. As of October 1, 2013, Piletz concluded that the fair market value of the personal property was \$396,600 and its continued use fair market value of the subject personal property was \$454,000.

The valuation of personal property by a municipality in Connecticut begins with General Statutes § 12-40 mandating a municipality to issue a notice requiring all persons liable to pay taxes to file a declaration of the taxable personal property belonging to the taxpayer on the first day of October in that year.<sup>2</sup> See *J.C. Penney Corp. v. Manchester*, 291 Conn. 838, 840, 970 A.2d 704 (2009).

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“General Statutes § 12-40. Notice requiring declaration of personal property. The assessors in each town . . . shall, on or before the fifteenth day of October annually, post on the signposts therein . . . or publish in a newspaper published in such town . . . a notice requiring all persons therein liable to pay taxes to bring in a declaration of the taxable personal property belonging to them on the first day of October in that year in accordance with section 12-42 . . . .”

General Statutes § 12-41 requires all taxpayers to file with the assessor an annual declaration of the “tangible personal property owned by [the taxpayer] on the assessment date . . . [including] furniture and fixtures of stores, offices, hotels, restaurants.”<sup>3</sup> As noted by the court in *J.C. Penney Corp. v. Manchester*, 291 Conn. 845, “[i]t is well settled that it is the duty of each taxpayer, as a personal obligation, to file with the assessors a list of his [or her] taxable property and furnish the facts upon which valuations may be based. If he [or she] fails to do so, the assessors are only required to act upon the best information they can obtain and the taxpayer cannot justly complain if the assessors, acting in good faith, make an error in judgment in listing and valuing his [or her] property.”

In the valuation process, General Statutes § 12-63 (b) permits an assessor to rely on a mass appraisal declaration form completed by the taxpayer based on the original cost of the personal property less depreciation. This appraisal process is essentially the cost approach. See *Sun Valley Camping Cooperative, Inc. v. Stafford*, 94 Conn. App. 696, 702, n.10, 894 A.2d 349 (2006). However, § 12-63 (b) further provides:

(10) If the assessor determines that the value of any item of personal property produced by the application of the schedules set forth in this subsection does not accurately reflect the present true and actual value of such item, the assessor shall adjust such value to reflect the present true and actual value of such item.

(11) Nothing in this subsection shall prevent any taxpayer from appealing any assessment made pursuant to this subsection if such assessment does not accurately reflect the present true and actual value of any item of such taxpayer’s personal property.

Plaintiff’s Exhibit #1 is a copy of the plaintiff’s October 1, 2012 Personal Property Declaration for the Ramada Plaza Hartford (dated December 14, 2012)

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“General Statutes § 12-41(c) Property included. Confidentiality of commercial and financial information. The annual declaration of the tangible personal property owned by such person on the assessment date, shall include, but is not limited to, the following property: Machinery . . . and furniture and fixtures of . . . hotels, restaurants, taverns, halls . . . .”

and filed with the assessor on December 14, 2012. This exhibit contains the following statement:

“Dear John (Mr. John S. Philip, City Assessor):

50 Morgan CT, LLC (Declarant) submits its personal property declaration for the October 1, 2012 Grand List.

Declarant asserts that this declaration form does not accurately reflect the market value of the personal property at its Ramada Plaza Hotel. In the hotel industry, as you know, personal property depreciates at a much faster rate than at the rate on the depreciation schedule provided in the form. Market value is salvage value for used hotel personal property - especially since the bulk of the FF&E at this hotel was acquired prior to October 1, 2006 and your records will indicate that most of this FF&E was acquired many years before October 1, 2006.

Declarant encloses herewith as addenda to the declaration two alternative statements of value. The first statement of value (Addendum #1) reflects what the current market bears - as illustrated through the price a willing buyer would pay for the personal property. The second statement of value (Addendum #2) reflects an allocated replacement cost less depreciation taken from a real estate appraisal of the hotel prepared for the prior owner in the California bankruptcy proceedings last year.

As of October 1, 2012, the market value of the personal property at this location is \$28,473 (as per Addendum #1). We would be pleased to discuss this declaration with you at your convenience.”

Plaintiff’s Exhibit #2 is a copy of the plaintiff’s October 1, 2013 Personal Property Declaration - Ramada Plaza Hartford, similar in language as that in Plaintiff’s Exhibit #1 reporting the October 1, 2013 market value of the personal property at the subject location as \$287,282 (as per Addendum #1).

The Declaration Forms (Plaintiff’s Exhibit #1 and Plaintiff’s Exhibit #2), submitted by the plaintiff to the assessor, each contain the following statement:

“Owner maintains the assessor’s formula (original cost less depreciation) does not accurately reflect fair market value of Declarant’s personal property. This declaration must rely on and assume previous declarations submitted by the prior owner accurately stated original cost. Owner provides two alternative statements

of value with supporting documentation to assist in valuing its personal property correctly whether or not prior declarations were accurate.”

Each Declaration Form (Plaintiff’s Exhibit #1 and Plaintiff’s Exhibit #2) also contains the following statement following the Affidavit contained on the Form:

“As stated on the initial page of this declaration, ‘net depreciated value’ does not accurately reflect the fair market value of the personal property at this hotel. Please see Addendum #1 and Addendum #2 with declarant’s alternative statements of value.”

Having heard the evidence presented by the parties in the course of this trial, the only issue for the court is to determine the fair market value of the plaintiff’s personal property as of October 1, 2012 and October 1, 2013. See *Xerox Corp. v. Board of Tax Review*, 240 Conn. 192, 207, 690 A.2d 389 (1997).

The personal property that was the subject of the assessment for the tax years of October 1, 2012 and October 1, 2013 consisted of typical hotel furnishings, i.e., guest room furniture, kitchen equipment, television sets, fixtures and equipment such as towels and linens. These items are generally referred to as furniture, fixtures and equipment (FF&E). The bulk of the FF&E were acquired by the hotel prior to October 1, 2006. As noted by Steven Gardiner, the hotel’s general manager, the hotel’s FF&E needs to be updated every 5 to 7 years. Plaintiff’s appraiser Piletz was of the opinion that generally personal property has a 15-year life, but, for hotels, personal property needed to be renovated every five to twelve years.

The assessor’s office prepared its own “Personal Property Inventory Listing” for the hotel covering a period of depreciation of eight years from 2005 to 2012 that recited a total assessed value of \$893,890, which equates to a fair market value of \$1,276,986. See defendant’s Exhibit C.

The city, in its 7/31/15 post-trial brief, pp. 14-15, argues that the original costs of the personal property at the hotel were \$3,144,838, based on the following:

FF&E	\$2,859,020	
Telephone systems		2,107

	Electronic data processing equipment	159,997
	Telecommunications equipment	
30,204		
	All other goods (signage)	
58,206		
	Uniforms/linens	
<u>35,304</u>		
	<b>Total</b>	
		<b>\$3,144,838</b>

As the city notes, the majority of the costs of the personal property of the hotel were incurred prior to 2007 and submits that it would be more expensive to replace the older equipment today. See defendant's 7/31/15 post-trial brief, p. 15.

Considering the fair market value of the existing personal property as of October 1, 2012 and October 1, 2013, the most credible evidence is the detailed reports prepared by the plaintiff's appraiser, Piletz, for the assessment years of October 1, 2012 and 2013. Piletz's report shows the fair market value in continued use of the FF&E for October 1, 2012 at \$330,870 and the fair market value in continued use of the FF&E for October 1, 2013 at \$454,000.

Piletz, in his appraisal report, went into great detail to render an exhaustive list of all of the FF&E located at the subject hotel. The report contained an itemized description of the equipment. The lists are displayed alphabetically by location. See plaintiff's exhibit 3 and plaintiff's exhibit 4.

In these two exhibits, Fair Market Value and Fair Market Value in Continued Use per item is presented followed by extended (or total) value. The extended values are simply a multiplication of per item value by quantity, when applicable. Total values are listed by location and at the end of the listing by final totals.

Throughout the listing of the personal property in the exhibits, the reader will note letters within parentheses following description write-ups. These letters, A,B,C,D, or S, are utilized to describe the condition and/or appearance of the equipment. They also indicate operational capability of moving parts where applicable. Items that have no letters are considered to be in average condition - (C).

The legends for these letter codes are:

- (A) Very Good, Like New
- (B) Above Average
- (C) Generally Average
- (D) Below Average, Poor
- (S) Scrap

In Piletz's final analysis of value, he concludes that the fair market value of the FF&E was \$283,800 for October 1, 2012 and \$396,600 for October 1, 2013, based on what would occur if the individual items of personal property were sold between a willing seller and a willing buyer.<sup>4</sup> However, Piletz also made a finding of fair market value in continued use which he defined as "the estimated amount, expressed in terms of money, that may reasonably be expected for a property, in an exchange between a willing buyer and a willing seller, with equity to both, neither under any compulsion to buy or sell, and both fully aware of all relevant facts, including installation, as of a specific date, and assuming that the business earnings support the value reported," citing *Valuing Machinery and Equipment*, 2000 Ed., American Society of Appraisers.

Since the valuation of the subject personal property is for the purpose of determining the fair market value of the FF&E as they exist in use and not for the purpose of buying or selling such items, Piletz's valuation of the subject personal property as FMVCU is the proper course to follow in the valuation of the subject property.<sup>5</sup>

Accordingly, judgment may enter in favor of the plaintiff, setting the valuation of the subject personal property, as of October 1, 2012, at \$330,870 and

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Fair market value is defined as the price that a willing buyer would pay a willing seller assuming a market exists for its optimum use. *Sakon v. Glastonbury*, 111 Conn. App. 242, 253, 958 A.2d 801 (2008).

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"[V]aluation is a matter of opinion [and] many factors, both real and hypothetical, properly may be included in the calculation of the 'true and actual value' . . . for assessment purposes. . . ." *Redding Life Care, LLC v. Redding*, 308 Conn. 87, 114, 61 A.3d 461 (2013).

the valuation of the subject personal property, as of October 1, 2013, at \$454,000 without costs to either party.

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Arnold Aronson  
Judge Trial Referee