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**2017 Edition**

# Property Tax Appeals (Municipal)

A Guide to Resources in the Law Library

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# Introduction

## A Guide to Resources in the Law Library

- **"The difference between a claim brought under § 12-117a and a claim brought under § 12-119** was explained by our Supreme Court in *Breezy Knoll Ass'n., Inc. v. Morris*, 286 Conn. 766, 778 n.20, 946 A.2d 215 (2008): '[Section] 12-119 requires an allegation that something more than mere valuation is at issue. It is this element that distinguishes § 12-119 from its more frequently evoked companion, [§ 12-117a]. . . . Under § 12-119, there are two possible grounds for recovery: the absolute nontaxability of the property in the municipality where **situated, and a manifest and flagrant disregard of statutory provisions.**' (Citation omitted; internal quotation marks omitted.) 'In short, § 12-117a is concerned with overvaluation, while [t]he focus of § 12-119 is whether the assessment is **illegal.**' (Internal quotation marks omitted.) *Griswold Airport, Inc. v. Madison*, 289 Conn. 723, 740, 961 A.2d 338 (2008)." [Wiele v. Board Of Assessment Appeals of the City Of Bridgeport](#), 119 Conn. App. 544, 548 n. 2, 988 A.2d 889 (2010).
- **"Our statutes [§ 12-117a] provide a method by which an owner of property may directly call in question the valuation placed by assessors upon his property by an appeal to the board of relief [now board of assessment appeals], and from it to the courts."** [Cohn v. Hartford](#), 130 Conn. 699, 702, 37 A.2d 237 (1944).
- **"We begin with the applicable legal principles on aggrievement.** 'Section 12-117a ... provide[s] a method by which an owner of property may directly call in question the valuation placed by assessors upon his property.... In a § 12-117a appeal, the trial court performs a two step function. The burden, in the first instance, is upon the plaintiff to show that he has, in fact, been aggrieved by the action of the board in that his property has been overassessed.... In this regard, [m]ere overvaluation is sufficient to justify redress under [§ 12-117a], and the court is not limited to a review of whether an assessment has been unreasonable or discriminatory or has resulted in substantial overvaluation.... Whether a property has been overvalued for tax assessment purposes is a question of fact for the trier.... The trier arrives at his own conclusions as to the value of land by weighing the opinion of the appraisers, the claims of the parties in light of all the circumstances in evidence bearing on value, and his own general knowledge of the elements going to establish value including **his own view of the property.**' (Citations omitted; internal quotation marks omitted.) *Konover v. West Hartford*, 242 Conn. 727, 734-35, 699 A.2d 158 (1997)." [Redding Life Care, LLC v. Town of Redding](#), 308 Conn. 87, 99-100, 61 A.3d 461 (2013).
- **"When it is claimed that a tax has been laid on property not taxable in the town or city in whose tax list such property was set, or that a tax laid on property was computed on an assessment which, under all the circumstances, was manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of such property, the owner thereof or any lessee . . . may, in addition to the other remedies provided by law, make application for relief to the superior court for the judicial district in which such town or city is situated."** Conn. Gen. Stat. [§ 12-119](#) (2017).

# Section 1: Appeal from Board of Assessment Appeals to Superior Court

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to property tax assessments **appealed from a municipality's Board of Assessment Appeals** to the Superior Court under Conn. Gen. Stat. § 12-117a.

## **CURRENCY:**

- November 2017

## **TREATED ELSEWHERE:**

- [Section 2](#): Bibliographic resources relating to appeals for wrongful property tax assessment made directly to the Superior Court under Conn. Gen. Stat. § 12-119.
- [Section 3](#): Bibliographic resources relating to determining the fair value in tax assessment cases.

## **DEFINITION:**

- "Any person...claiming to be aggrieved by the action of the board of tax review or the board of assessment appeals, as the case may be, in any town or city may, within two months from the date of the mailing of notice of such action, make application, in the nature of an appeal **therefrom,...**to the superior court for the judicial district in which such town or city is situated, which shall be accompanied by a citation to such town or city to appear **before said court.**" Conn. Gen. Stat. [§ 12-117a](#) (2017).
- "The function of the trial court in any municipal tax appeal is to first determine whether the subject property was overvalued, and if it was overvalued, what was the fair market value of the property on the date of the last revaluation. *Konover v. West Hartford*, 242 Conn. 727, 734-36, 699 A.2d 158 (1997). It is the plaintiff taxpayer's burden to prove that it was aggrieved because its property was overvalued. *Executive Square Ltd. Partnership v. Board of Tax Review*, 11 Conn.App. 566, 571, 528 A.2d 409 (1987)." [Motiva Enterprises, LLC v. Stratford](#), 50 Conn. Supp. 639, 645, 961 A.2d 485 (2007).

## **ONLINE FAQ:**

- [Tax Appeal Frequently Asked Questions](#) (Tax Session of the Connecticut Superior Court)

<http://www.jud.ct.gov/external/super/Tax/faqs.htm>

## **COURT RULES:**

- Conn. Practice Book (2017)  
Chapter 14 – Dockets, Trial Lists, Pretrials and Assignment Lists  
[§ 14-7](#). Administrative Appeals; Exceptions

## **STANDING ORDERS:**

- Superior Court Standing Orders - [Tax and Administrative Appeals Session](#)  
[Standing Order on Tax Appeals Pending or Transferred to the Tax and Administrative Appeals Session in New Britain](#)

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017)  
[Chapter 203](#). Property Tax Assessment ([2016 Supplement](#))  
[§ 12-111](#). Appeals to board of assessment appeals  
[§ 12-112](#). Limit of time for appeals  
[§ 12-117a](#). **Appeals from . . . boards of assessment appeals**

## **LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- [Getting Up to Speed on Property Revaluation](#), 2014-R-0280, Office of Legislative Research Report (December 15, 2014).
- [Municipal Authorization to Tax Property](#), 2014-R-0037, Office of Legislative Research Report (February 6, 2014).
- [Property Tax Revaluation](#), 2012-R-0098, Office of Legislative Research Report (February 21, 2012).
- [Deadline for Property Tax Assessment Appeal](#), 2010-R-0118, Office of Legislative Research Report (March 1, 2010).
- [Appealing Property Tax Assessments](#), 2009-R-0335, Office of Legislative Research Report (September 29, 2009).

## **FORMS:**

Forms in the *Land Use Law and Practice* treatise can be found at each of our [law libraries](#).

- 2 Conn. Practice Book (1997).  
[Form 204.4. Appeal from Board of Tax Review \[Board of Assessment Appeal\]](#)  
Form 204.5. Amendment to Appeal from Board of Assessment Appeals to Include New Assessment Year
- 9B Robert A. Fuller, *Connecticut Practice Series, Land Use Law and Practice*, 4th ed. (2015).  
Appendix § A11. Form - Appeal from Board of Assessment Appeals under General Statutes § 12-117a  
Appendix § A13. Form - Citation and Recognizance for Tax Appeal

## **RECORDS & BRIEFS:**

- Connecticut Appellate Court Records & Briefs (October/November 2000), [Davis v. Westport](#), 61 Conn. App. 834, 767 A.2d 1237 (2001).  
[Amended Complaint](#)

## **WEST KEY NUMBERS:**

- *Taxation*  
# 2640 et seq. - Review, correction, or setting aside of assessment  
# 2690 et seq. - Judicial review or intervention  
# 2720 et seq. - Evidence in general

## **DIGESTS:**

## **COURT CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Dowling’s Digest: *Taxation* # 13. Assessment appeals
- [Fairfield Merrittview Limited Partnership v. City of Norwalk](#), 172 Conn. App. 160, 178, 159 A.3d 684 (2017). “We affirmed the judgment of **the trial court and held that** ‘[f]or assessment purposes, the value of the plaintiff’s real estate must be distinguished from the value of its business since it is the realty itself which is subject to the property tax assessment.’”
- [Chestnut Point Realty, LLC v. Town of East Windsor](#), 324 Conn. 528, 541, 153 A.3d 636 (2017). “A rule providing that service of the appeal, rather than the filing of the application in court, must be completed within the two month limitation period most readily advances the goal of resolving tax appeals expeditiously.”
- [Nutmeg Housing Development Corp. v. Town of Colchester](#), 324 Conn. 1, 7, 151 A.3d 358 (2016). “**The trial court explained that** ‘[i]t is a basic principle of law governing tax appeals that it is the burden of the taxpayer to show that he or she has been aggrieved by the action of the assessor overassessing the property. *Ireland* v. *Wethersfield*, 242 Conn. 550, 556, 698 A.2d 888 (1997). It is also recognized by our case law that, [when] the trial court finds that the taxpayer’s appraiser is unpersuasive, judgment may be [rendered] in favor of the municipality on this basis alone.’”
- [Fairfield Merrittview Limited Partnership v. City of Norwalk](#), **320 Conn. 535, 555 (2016)**. “Because the LLC was the sole owner of the property at issue at the relevant time, its addition as a party plaintiff undeniably was necessary for a determination of the matter in dispute, and the naming of the partnership, instead of the LLC, was due to an error, misunderstanding or misconception. The plaintiffs’ counsel quickly took action to add the LLC as a party to the proceedings. The defendants have not identified any prejudice that they suffered from the action having been initiated and briefly maintained in the name of the wrong party, and we are unable to conceive of any. In sum, the trial court properly allowed the amendment to add the LLC, which cured any jurisdictional defect in the original **complaint.**”
- [Wheelabrator Bridgeport, L.P. v. City of Bridgeport](#), 320 Conn. 332, 347 (2016). “We conclude that this language clearly and unambiguously confers standing on Wheelabrator to appeal from a property tax assessment. First, the city does not dispute that Wheelabrator is a ‘lessee’ as that term is used in § 22a–270 (b). Rather, the city’s primary argument is that, contrary to the allegation in Wheelabrator’s complaint in the first appeal, Waste To Energy never was the record title holder or record lessor of the property. Nothing in the language of § 22a–270 (b), however, suggests that an entity that indisputably is a

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'lessee' under the statute cannot appeal from a tax assessment unless it pleads and establishes the identity of **the lessor of the property.**"

- [Kasica v. Town of Columbia](#), 309 Conn. 85, 105, 70 A.3d 1, **13 (2013)**. "Accordingly, we conclude that the assessor in the present case had the authority, pursuant to § 12-55(b), to conduct the interim assessments of the plaintiff's property and assign value to the partially completed construction for purposes of the 2008 and 2009 grand lists."
- [Redding Life Care, LLC v. Town of Redding](#), 308 Conn. 87, 104, 61 A.3d 461 (2013). "Accordingly, once the trial court rejected the plaintiff's evidence as not credible, it properly concluded that the plaintiff had failed to satisfy its burden under § 12-117a. See, e.g., *Ireland v. Wethersfield*, supra, 242 Conn. at 557-58, 698 A.2d 888 ('[i]f the trial court finds that the taxpayer has failed to meet his burden because, for example, the court finds unpersuasive the method of valuation espoused by the taxpayer's appraiser, the trial court may render judgment for the town on that basis alone'). We therefore conclude that the trial court's determination that the plaintiff failed to establish aggravement under § 12-117a was not clearly erroneous."
- [Goodspeed Airport, LLC. v. Town of East Haddam](#), 302 Conn 70, 85, 24 A.3d 1205 (2011). "According to the plaintiff, a taxpayer is sufficiently aggrieved and entitled to a de novo determination of value when their property is wrongfully misclassified under § 12-107e (d), and then assessed at an improper valuation. The defendant disagrees, claiming that the Appellate Court properly concluded that, pursuant to § 12-117a, the plaintiff was required to establish not simply that its application for open space classification was wrongly denied, but also that the denial of its application resulted in an overassessment. We agree with the plaintiff."
- [Sakon v. Town of Glastonbury](#), 111 Conn. App. 242, 251, **958 A.2d 801 (2008)**. "A review of the record reveals that the court's application of the doctrine of assemblage as a method of valuation was legally correct and factually supported. In arriving at an overall conclusion that the value of the property was based properly on an assemblage, the court carefully weighed the opinion of the defendant's appraiser **against the opinion of the plaintiff.**"
- [Breezy Knoll Association, Inc. v. Town of Morris](#), 286 Conn. 766, 767, 946 A.2d 215 (2008). "This case concerns the valuation, for property tax purposes, of common areas owned by a neighborhood homeowners' association when those common areas are subject to extensive encumbrances that solely benefit the association's **neighborhood resident members.**"

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Sun Valley v. Town of Stafford](#), 94 Conn. App. 696, 698-699, 894 A.2d 349 (2006). **"The basic question of law underlying the plaintiff's claims is whether the court determined the true and actual value of the property, for the purposes of § 12-117a, as required by the Common Interest Ownership Act (CIOA), General Statutes § 47-200 et seq., particularly General Statutes §§ 47-202 and 47-204 (a)."**
- [Nolan v. City of Milford](#), 92 Conn. App. 607, 609, 886 A.2d 493 (2005). **"A tax appeal brought pursuant to General Statutes § 12-117a is a de novo proceeding in which the court as trier of fact makes an independent judgment on the valuation of the real property and improvements without regard to the board of assessment review's prior determination on the same subject."**
- [National Amusements, Inc. v. Town of East Windsor](#), 84 Conn. App. 473, 480 n.7, 854 A.2d 58 (2004). **"Although parties to a tax appeal pursuant to § 12-117a may stipulate that the valuation of only a portion of the property is in dispute; see, e.g., *Burritt Mutual Savings Bank v. New Britain*, 146 Conn. 669, 673-74, 154 A.2d 608 (1959); such stipulation informs, rather than binds, the trial court's independent determination. The plaintiff has provided the court no authority for its assertion that the parties may circumscribe the parameters of the court's independent determination as to the value of the taxpayer's assessed property in a § 12-117a tax appeal." (Footnote 7)**
- [Aetna Life Ins. Co. v. Middletown](#), 77 Conn. App. 21, 32, 822 A.2d 974 (2003). **"The city's sole claim on appeal is that the court should have dismissed Aetna's appeal because Aetna failed to satisfy its burden of proving that the city's appraiser had overvalued the subject property. We disagree."**
- [Union Carbide Corp. v. City of Danbury](#), 257 Conn. 865, 873, 778 A.2d 204 (2001). **"Because the plaintiff cannot prove that the valuation is unjust, the trial court properly refused to adjust the value."**
- [Davis v. Westport](#), 61 Conn. App. 834, 843, 767 A.2d 1237 (2001). **"In the present case, the referee found that the plaintiff had established aggrievement by showing that the assessor deviated from the method he had used in all other assessments for properties located on Beachside Avenue and for other waterfront properties. Our question becomes whether, as a matter of law, on the basis of facts found by the referee, the plaintiff established that the assessment, which treated her properties as individual lots rather than one merged lot, resulted in an improper tax and, therefore, aggrieved her. We conclude that she was so aggrieved."**



- [Ireland v. Town of Wethersfield](#), 242 Conn. 550, 556-557, 698 A.2d 888 (1997). “[W]e recently restated the basic principles of the law governing a tax appeal pursuant to § 12-117a. We observed that, in such an appeal, ‘the trial court tries the matter de novo and the ultimate question is the ascertainment of the true and actual value of the [taxpayer’s] property. . . . At the de novo proceeding, the taxpayer bears the burden of establishing that the assessor has overassessed its property. . . . The trier of fact must arrive at his own conclusions as to the value of [the taxpayer’s property] by weighing the opinion of the appraisers, the claims of the parties in light of all the circumstances in evidence bearing on value, and his own general knowledge of the elements going to establish value.’ (Citations omitted; internal quotation marks omitted.) [*Xerox Corp. v. Board of Tax Review*, 240 Conn. 192, 690 A.2d 389 (1997).] *Id.*, 204.”
- [Konover v. Town Of West Hartford](#), 242 Conn. 727, 735, 699 A.2d 158 (1997). “Only after the court determines that the taxpayer has met his burden of proving that the assessor’s valuation was excessive and that the refusal of the board of tax review to alter the assessment was improper, however, may the court then proceed to the second step in a § 12-117a appeal and exercise its equitable power to ‘grant such relief as to justice and equity appertains. . . .”
- [Columbia Fed. Savings Bank. v. International Site Consultants](#), 40 Conn. App. 64, 69-70, 669 A.2d 594 (1996). “Our Supreme Court has held that one cannot, by bringing a common law action of indebitatus assumpsit, circumvent the statutory time limitations of General Statutes § 12-117a (appeal from property tax valuation) and General Statutes § 12-119 (claim of wrongful tax assessment).”

**ENCYCLOPEDIAS:**

- 72 [Am. Jur. 2d](#) *State and Local Taxation* (2012).  
§§ 604-711. Assessments and Levy  
§§ 961-993. Remedies for wrongful government or official action
- 64A [C.J.S.](#) *Municipal Corporations* (2011).  
§§ 2308 et seq. Assessments
- 84 [C.J.S.](#) *Taxation* (2010).  
§§ 899-910. Appeal from Assessment
- 9A Robert A. Fuller, *Connecticut Practice Series, Land Use Law and Practice*, 4th ed. (2015).  
Chapter 45. Municipal property tax appeals  
§ 45:1. General concepts  
§ 45:2. – Exemptions  
§ 45:3. – Limited methods of tax relief  
§ 45:4. Summary of property assessment

**TEXTS & TREATISES:**

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procedures

- § 45:5. – Percentage of assessment
- § 45:6. – Periodic revaluations of municipality
- § 45:7. – Summary of appeals statutes; appeals to board of tax review and state board
- § 45:8. Procedural requirements of General Statutes § 12-117a
- § 45:9. Test in appeals under General Statutes § 12-117a
- § 45:10. Methods of valuation
- § 45:11. – Comparable sales approach
- § 45:12. – Capitalization of income approach
- § 45:13. – Reproduction cost less depreciation approach
- § 45:14. – Considerations on approaches to valuation
- § 45:15. Determining value; opinion evidence
- § 45:16. Taxation as farmland, forest land and open space land
- § 45:17. Appeals under General Statutes § 12-119
- § 45:18. Refunds of taxes in tax appeals

- 2 Joel M. Kaye et al., *Connecticut Practice Series, Practice Book Annotated, Connecticut Civil Practice Forms*, 4th ed. (2004).

**Authors' Comment following Form 204.4**

- Richard D. Pomp, Gen. Ed., *LexisNexis Tax Practice Insights: Connecticut*, 2nd ed. (2010).  
Timely Appeal to the Board of Assessment Appeals Is a Prerequisite to Challenging Overvaluation in Court, pg. 320.

Naming the Proper Parties in Property Tax Appeals – Conn. Gen. Stat. § 12-117a, pg. 323.

Table 1: Statute of Limitations, 12-117a – Chestnut Point Realty, LLC v. Town of East Windsor

<p><u>Chestnut Point Realty, LLC v. Town of East Windsor</u>, 324 Conn. 528, 530, 153 A.3d 636 (2017).</p>	<p>The statutory right to appeal from an assessment of real property by a municipal board of assessment appeals is <b>conditioned on the property owner “mak[ing] application”</b> to the Superior Court within two months of the date the board mails notice of its action. See General Statutes § 12-117a. The question presented by this case is whether, for purposes of this limitation period, such application is made upon the filing of the required appeal documents in the Superior Court, or rather, when those appeal documents have been served upon the taxing municipality. The plaintiff, Chestnut Point Realty, LLC, appeals from the judgment of the Appellate Court affirming the trial court's dismissal of its municipal tax appeal due to untimeliness. <i>Chestnut Point Realty, LLC v. East Windsor</i>, 158 Conn. App. 565, 575, 119 A.3d 1229 (2015). The plaintiff claims that, under the plain language of § 12-117a, its appeal was timely commenced upon the filing of its appeal documents in the Superior Court, even though the appeal was not served on the defendant, the town of East Windsor (town), until a date beyond the expiration of the two month appeal period. We disagree and, accordingly, affirm the judgment of the Appellate Court.</p>
<p><u>Chestnut Point Realty, LLC v. Town of E. Windsor</u>, 324 Conn. 528, 543-44, 153 A.3d 636 (2017).</p>	<p>Finally, our decision today confirms the correctness of a large number of trial court opinions considering the issue and holding, without exception, that municipal tax appeals are commenced by service of process on the municipality. To the extent the plaintiff contends that ambiguity in the statute affected its ability to pursue its appeal in a timely fashion, its argument is refuted by the existence of these decisions and the ample clarification that they provided. <b>In sum, because the plaintiff failed to serve its appeal on the town within the two month limitation period provided for in § 12-117a, the trial court properly dismissed it as untimely</b>, and the Appellate Court properly affirmed that dismissal. [Emphasis added.]</p>

Figure 1: Appeal from Board of Assessment Appeals

RETURN DATE: \_\_\_\_\_ : SUPERIOR COURT

(First Named Plaintiff) \_\_\_\_\_ : J.D. OF \_\_\_\_\_

VS. \_\_\_\_\_ : AT \_\_\_\_\_

(First Named Defendant) \_\_\_\_\_ : Date

**Appeal from Board of Assessment Appeals**

**Application**

To the superior court in and for the judicial district of \_\_\_\_\_ at \_\_\_\_\_ on (*return date*) comes (*name and residence of the applicant*), appealing from the action of the board of assessment appeals of the town of \_\_\_\_\_ and complains and says:

**Excessive Valuation**

1. The applicant, on (*assessment date*) was the owner (*or state other interest therein*) of certain property in that town as follows:  
  
(*Insert description of each parcel of land, building or other property*)
2. A written or printed list of this property was duly brought in to the assessors as required by law (*this paragraph should be omitted or changed where the filing of a list of certain property is not required. See Gen.Stat., § 12-41*).
3. The assessors of the town valued the property on that assessment date as follows:  
  
(*Describe each item and value placed thereon*)
4. The assessors determined that all property should be liable for taxation at \_\_\_\_\_ % of its true and actual valuation on that assessment date.

5. The valuation of this property placed thereon by the assessors was not that percentage of its true and actual value on that assessment date but was grossly excessive, disproportionate and unlawful.

6. The applicant or his attorney or agent duly appealed to the board of assessment appeals of the town claiming to be aggrieved by the action of the assessors and offered to be sworn and answer all questions concerning the property but the board made no changes in the valuations except (*state any changes made*)

Wherefore the applicant appeals from the action and ruling of the board of assessment appeals and prays that the valuation of this property on (*assessment date*) be reduced to % of its true and actual value

Dated at (*place and date*).

**Addition of Items to List**

1. The board of assessment appeals of the town added to the applicant's list of taxable property owned by him on (*assessment date*) the following property (*state items added, with valuation placed on each*).

2. The applicant did not, on that assessment date, own the property added to his list by the board of assessment appeals.

Wherefore the applicant appeals from the action of the board of assessment appeals and prays that the items of property added by the board be stricken from his list.

Dated at (*place and date*).

(*Name of Applicant*)

BY \_\_\_\_\_

Attorney

## **Citation and Recognizance**

To Any Proper Officer:

By authority of the state of Connecticut you are hereby commanded to summon the town of \_\_\_\_\_ to appear before the superior court in and for the judicial district of \_\_\_\_\_ at \_\_\_\_\_ on (*return date*) then and there to answer unto the foregoing application of (*name and residence of the applicant*).

(*Name and residence*) as principal and (*name and residence*) as surety are hereby recognized as jointly and severally bound unto said town of \_\_\_\_\_ in the sum of \$ \_\_\_\_\_ conditioned that the applicant shall prosecute his application to effect and comply with and conform to the orders and decrees of the court in the premises.

Hereof fail not, but due service make in the same manner as is required in case of a summons in a civil action and due return make.

Dated at (*place and date*).

---

Commissioner of the Superior Court

(P.B. 1963, Forms 775 and 777; see Gen. Stat., §§ 12-115 and 12-118.)

Figure 2: Amended Complaint in Davis v. Westport

DOCKET NO. CV96-01530535

LUELLA W. DAVIS	:	SUPERIOR COURT
VS.	:	J. D. OF STAMFORD/NORWALK AT STAMFORD
TOWN OF WESTPORT, ET AL	:	DECEMBER 3, 1998

AMENDED COMPLAINT

Pursuant to the Stipulation or the parties at the trial of this case held on November 20, 1998, the Applicants amend their appeal as follows:

FIRST COUNT:

1. Martin S. Davis and Luella W. Davis (collectively, the Applicant), on October 1, 1995, were the owners of certain property in the town of Westport as follows:

ALL THAT certain piece, parcel or tract of land, situated in the Town of Westport. County of Fairfield and State of Connecticut, in area 5.92 acres, and shown and delineated as Lot No. 2 and Lot No. 3 on a certain map entitled, "Frost Point Map of Subdivision For Ruth Bedford, Greens Farms, Westport, Conn. August 15, 1964", Which map is on file in the Office of the Town Clerk of said Town of Westport as the Map Numbered 5850, reference thereto being hereby had.

TOGETHER WITH and subject to certain rights, easements, covenants, obligations and restrictions as set forth in a deed from Ruth Thomas Bedford to Dorothy S. Halsell recorded in the land records of the Town of Westport in Volume 223, Pages 388 and 389.

TOGETHER WITH any right, title and interest of Grantor in and to the waters and shores of Long Island Sound. Together with the rights and privileges set forth in a Warranty Deed from Ruth Thomas Bedford to James M. Doubleday and Elizabeth Doubleday dated December 14, 1964 and recorded in the Westport Land Records in Volume 221 at Page 314.

Said property is known as 60 Beachside Avenue, Westport, Connecticut and is designated as Lots 19-2 and 19-3 on Assessor's Map No. 5452-3.

2. The assessor of the town valued the property on that assessment date at \$2,238,720.00.

(Land	- \$2,226,840.00
Out Bldg.	<u>11,880.00</u>
Total	- \$2,238,720.00)

3. The assessor determined that all property should be liable for taxation at 70% of its true and actual valuation on that assessment date.

4. The valuation of this property placed thereon by the assessor was not that percentage of its true and actual value on that assessment date but was grossly

excessive, disproportionate and unlawful.

5. The Defendant, Town of Westport, failed to apply uniform percentages to the present true and actual valuation of the properties of the Grand List in violation of Section 12-64 of the Connecticut General Statutes.

6. The fair market value of the land described above is disproportionate and discriminatory in comparison with the fair market value determined by the Assessor for similar properties located in the Town of Westport, thereby causing the Applicant to bear an unfair share of the municipal tax burden, in violation of Section 12-64 of the Connecticut General Statutes.

7. The applicant or his attorney or agent duly appealed to the Board of Tax Review of the town claiming to be aggrieved by the action of the assessor and offered to be sworn and answer all questions concerning the property but the Board made no changes in the valuation.

#### SECOND COUNT:

1. Martin S. Davis and Luella W. Davis (collectively the Applicant), on October 1, 1996, were the owners of certain property in the Town of Westport as follows:

ALL THAT certain piece, parcel or tract of land, situated in the Town of Westport, County of Fairfield and State of Connecticut, in area 5.92 acres, and shown and delineated as Lot No. 2 and Lot No. 3 on a certain map entitled, "Frost Point Map of Subdivision For Ruth Bedford, Greens Farms, Westport, Conn. August 15, 1964", which map is on file in the Office of the Town Clerk of said Town of Westport as the Map Numbered 5850, reference thereto being hereby had.

TOGETHER WITH and subject to certain rights, easements, covenants, obligations and restrictions as set forth in a deed from Ruth Thomas Bedford to Dorothy S. Halsell recorded in the land records of the Town of Westport in Volume 223, Pages 388 and 389.

TOGETHER WITH any right, title and interest of Grantor in and to the waters and shores of Long Island Sound. Together with the rights and privileges set forth in a Warranty Deed from Ruth Thomas Bedford to James M. Doubleday and Elizabeth Doubleday dated December 14, 1964 and recorded in the Westport Land Records in Volume 221 at Page 314.

Said property is known as 60 Beachside Avenue, Westport, Connecticut and is designated as Lots 19-2 and 19-3 on Assessor's Map No. 5452-3.

2. -- 6. Paragraphs 2 - 6 of the First Count are incorporated herein by reference.

#### THIRD COUNT:

1. Martin S. Davis and Luella W. Davis (collectively, the Applicant), on October 1, 1997, were the owners of certain property in the Town of Westport as follows:

ALL THAT certain piece, parcel or tract of land, situated in the Town of Westport, County of Fairfield and State of Connecticut, in area 5.92 acres, and shown and delineated as Lot No. 2 and Lot No. 3 on a certain map entitled, "Frost Point Map of Subdivision For Ruth Bedford, Greens Farms, Westport, Conn. August 15, 1964",



which map is on file in the Office of the Town Clerk of said Town of Westport as the Map Numbered 5850, reference thereto being hereby had.

TOGETHER WITH and subject to certain rights, easements, covenants, obligations and restrictions as set forth in a deed from Ruth Thomas Bedford to Dorothy S. Halsell recorded in the land records of the Town of Westport in Volume 223, Pages 388 and 389.

TOGETHER WITH any right, title and interest of Grantor in and to the waters and shores of Long Island Sound. Together with the rights and privileges set forth in a Warranty Deed from Ruth Thomas Bedford to James M. Doubleday and Elizabeth Doubleday dated December 14, 1964 and recorded in the Westport Land Records in Volume 221 at Page 314.

Said property is known as 60 Beachside Avenue, Westport, Connecticut and is designated as Lots 19-2 and 19-3 on Assessor's Map No. 5452-3.

2. -- 6. Paragraphs 2 - 6 of the First Count are incorporated herein by reference.

#### FOURTH COUNT:

1. Luella W. Davis (the Applicant), on October 1, 1998, was the owner of certain property in the Town of Westport as follows:

ALL THAT certain piece, parcel or tract of land, situated in the Town of Westport, County of Fairfield and State of Connecticut, in area 5.92 acres, and shown and delineated as Lot No. 2 and Lot No. 3 on a certain map entitled, "Frost Point Map of Subdivision For Ruth Bedford, Greens Farms, Westport, Conn. August 15, 1964", which map is on file in the Office of the Town Clerk of said Town of Westport as the Map Numbered 5850, reference thereto being hereby had.

TOGETHER WITH and subject to certain rights, easements, covenants, obligations and restrictions as set forth in a deed from Ruth Thomas Bedford to Dorothy S. Halsell recorded in the land records of the Town of Westport in Volume 223, Pages 388 and 389.

TOGETHER WITH any right, title and interest of Grantor in and to the waters and shores of Long Island Sound. Together with the rights and privileges set forth in a Warranty Deed from Ruth Thomas Bedford to James M. Doubleday and Elizabeth Doubleday dated December 14, 1964 and recorded in the Westport Land Records in Volume 221 at Page 314.

Said property is known as 60 Beachside Avenue, Westport, Connecticut and is designated as Lots 19-2 and 19-3 on Assessor's Map No. 5452-3.

2. -- 6. Paragraphs 2 - 6 of the First Count are incorporated herein by reference.

## Section 2: Appeal Directly to Superior Court

A Guide to Resources in the Law Library

### **SCOPE:**

- Bibliographic resources relating to appeals for wrongful property tax assessment made directly to the Superior Court under Conn. Gen. Stat. § 12-119.

### **CURRENCY:**

- November 2017

### **TREATED ELSEWHERE:**

- [§ 1. Appeals taken to Superior Court from Board of Assessment Appeals](#)

### **DEFINITION:**

- “In contrast to § 12-117a, which allows a taxpayer to challenge the assessor’s valuation of his property, § 12-119 allows a taxpayer **to bring a claim that...**the assessment was manifestly excessive **and** could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation **of [the real] property....**” [Pauker v. Roig](#), 232 Conn. 335, 339-341, 654 A.2d 1233 (1995). (Emphasis added; internal quotation marks omitted.)
- “Our case law makes clear that a claim that an assessment is ‘excessive’ is not enough to support an action under this statute. Instead, § 12-119 requires an allegation that **something more than mere valuation is at issue.**” *Second Stone Ridge Cooperative Corp. v. Bridgeport*, 220 Conn. 335, 339-40, 597 A.2d 326 (1991); accord *Connecticut Light & Power Co. v. Oxford*, 101 Conn. 383, 392, 126 A. 1 (1924).” [Pauker v. Roig](#), 232 Conn. 335, 341, 654 A.2d 1233 (1995).
- “Under § 12-119, there are two possible grounds for recovery: the absolute nontaxability of the property in the municipality where situated, and a manifest and flagrant **disregard of statutory provisions.**’ (Citation omitted; internal quotation marks omitted.) ‘In short, § 12-117a is concerned with overvaluation, while [t]he focus of § 12-119 is whether **the assessment is illegal...**” [Wiele v. Board Of Assessment Appeals of the City Of Bridgeport](#), 119 Conn. App. 544, 548 n. 2, 988 A.2d 889 (2010).
- “In seeking to determine the meaning of the phrase ‘the date as of which the property was last evaluated for purposes of taxation’; **General Statutes § 12-119**; ...refers to the assessment date. As our Supreme Court has stated, ‘property [is] assessed for purposes of taxation on **October 1 of each year.**’” [Cornelius v. Arnold](#), 168 Conn. App. 703, 712, 147 A.3d 729 (2016).

### **COURT RULES:**

- Conn. Practice Book (2017)  
Chapter 14 – Dockets, Trial Lists, Pretrials and Assignment Lists  
[§ 14-7](#). Administrative Appeals; Exceptions

## **STANDING ORDERS:**

- Superior Court Standing Orders - [Tax and Administrative Appeals Session](#)  
[Standing Order on Tax Appeals Pending or Transferred to the Tax and Administrative Appeals Session in New Britain](#)

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015)  
[Chapter 203](#). Property Tax Assessment  
[§ 12-81](#). Exemptions.  
**[§ 12-119](#). Remedy when property wrongfully assessed**
- **2017 Public Acts Amending [§ 12-81](#):**  
[Public Act No. 17-105](#), secs. 10 and 11  
[Public Act No. 17-199](#), sec. 1  
[Public Act No. 17-202](#), sec. 34

## **FORMS:**

Forms in the *Land Use Law and Practice* treatise can be found at each of our [law libraries](#).

- 2 Conn. Practice Book (1997).  
[Form 204.6. Application for relief against excessive tax valuation](#)
- 9B Robert A. Fuller, *Connecticut Practice Series, Land Use Law and Practice*, 4th ed. (2015).

Appendix § A12. Form - Appeal Excessive Tax Valuation under General Statutes § 12-119

Appendix § A13. Form - Citation and Recognizance for Tax Appeal

## **WEST KEY NUMBERS:**

- *Municipal Corporations*  
# 987 et seq.
- *Taxation*  
# 2640 et seq. - Review, correction, or setting aside of assessment  
# 2690 et seq. - Judicial review or intervention  
# 2720 et seq. - Evidence in general

## **DIGESTS:**

- Dowling's Digest: *Taxation* # 13. Assessment appeals

## **COURT CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Cornelius v. Arnold](#), 168 Conn. App. 703, 712, 147 A.3d 729 (2016). "Our appellate courts uniformly have held that 'the date as of which the property was last evaluated for purposes of taxation' refers to the assessment date. As our Supreme Court has stated, 'property [is] assessed for purposes of taxation on October 1 of each year. The claim that ... property ha[s] been wrongfully or excessively assessed [may be] appealed ... by direct action to the court within one year from the date when the property was last evaluated for purposes of taxation pursuant to § 12-119.'"
- [Wheeler v. Bridgeport, L.P. v. City of Bridgeport](#), 320 Conn. 332, 372 n.36 (2016). "It is well established that, unlike appeals pursuant to § 12-117a, appeals pursuant to

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§ 12-119 'must [involve] allegations beyond the mere claim that the assessor overvalued the property. [The] plaintiff . . . must satisfy the trier that [a] far more exacting test has been met: either there was misfeasance or nonfeasance by the taxing authorities, or the assessment was arbitrary or so excessive or discriminatory as in itself to show a **disregard of duty on their part.**' (Internal quotation marks omitted.) *Wilson v. Kelley*, 224 Conn. 110, 119, 617 A.2d 433 (1992)."

- [Redding Life Care, LLC v. Town Of Redding](#), 308 Conn. 87, 111, **61 A.3d 461 (2013)**. "In sum, although the plaintiff may disagree that the hypothetical condition was *necessary* to reach the valuation, it has failed to demonstrate that the town assessor's reliance on the condition was *illegal*, and, accordingly, the plaintiff cannot prevail on its claim under § 12-119. See, e.g., *Second Stone Ridge Cooperative Corp. v. Bridgeport*, supra, 220 Conn. at 343, 597 A.2d 326 ('because the selection of an inappropriate method of appraisal or a paucity of the underlying data in connection with an appraisal, without more, is not manifestly illegal under our statutes . . . the circumstances presented . . . do not rise to the level of the extraordinary situation that would warrant tax relief under the provisions of § 12-119')."
- [City of Bridgeport v. White Eagle's Society Of Brotherly Help, Inc., et al.](#), 140 Conn. App. 663, 670-671, 59 A.3d **859 (2013)**. "Additionally, whenever a city levies a tax on property that is subject to a tax exemption, that is an illegal exaction that is amenable to redress in an action brought pursuant to § 12-119. See *Faith Center, Inc. v. Hartford*, 192 Conn. 434, 437, 472 A.2d 16, cert. denied, 469 U.S. 1018, 105 S.Ct. 432, 83 L.Ed.2d 359 (1984). Thus, the defendant also could have sought to enforce its right to an exemption under the stipulated judgment in a § 12-119 action. In sum, we agree with the court's order overruling the defendant's objection to the motion for summary judgment, in which the court found that the issues the defendant sought to adjudicate by counterclaim could have been addressed earlier by following appropriate statutory procedures..."
- [Wiele v. Board Of Assessment Appeals of the City Of Bridgeport](#), 119 Conn. App. 544, 554, 988 A.2d 889 (2010). "Substantively, the arguments of the plaintiff are the same ones that a party would make to claim equitable tolling. . . . **Equitable tolling has been defined as the following: 'The doctrine that the statute of limitations will not bar a claim if the plaintiff, despite diligent efforts, did not discover the injury until after the limitations period had expired.'** *Black's Law Dictionary* (9th Ed. 2009)."
- [Griswold Airport, Inc. v. Town of Madison](#), 289 Conn. 723, 725-726, 961 A.2d 338 (2008). "The named defendant . . . appeals from the judgment of the trial court sustaining a

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municipal tax appeal brought by the plaintiff, Griswold Airport, Inc., pursuant to General Statutes § 12-119. The defendant claims on appeal that the trial court improperly: **(1) concluded that the defendant's tax assessor (assessor) illegally terminated the open space classification on the plaintiff's property and revalued it accordingly; and (2) granted the plaintiff relief pursuant to § 12-119."**

- [Stepney Pond Estates, Ltd. v. Town of Monroe](#), 260 Conn. 406, 421, 797 A.2d 494 (2002). "We now must determine whether the fact that the plaintiff proceeded under § 12-119 instead of bringing a collateral challenge under the common law deprived the **trial court of jurisdiction.**"
- [Interlude, Inc. v. Skurat](#), 253 Conn. 531, 541, 754 A.2d 153 (2000). "We are not considering the merits of Interlude's case here, namely, whether Interlude is responsible for the taxes properly assessed on October 1, 1991, but not due and payable until after Interlude's acquisition of the property on September 24, 1992. We merely determine that § 12-119 is inapplicable to the present case because there is no issue regarding the assessed value of the property, and because Interlude did not own the property on the assessment date. Accordingly, the one year statute of limitations provided by § 12-119 is not applicable here and, therefore, does not bar Interlude's claim."
- [Crystal Lake Clean Water Pres. A. v. Ellington](#), 53 Conn. App. 142, 148, 728 A.2d 1145 (1999). "It is clear that § 12-119 is the correct procedure for an aggrieved taxpayer to challenge the improper assessment of an easement."
- [Sears, Roebuck And Company v. Board of Tax Review](#), 241 Conn. 749, 762, 699 A.2d 81 (1997). "As a substantive matter, therefore, the taxpayer bears a heavier burden under § 12-119 than under § 12-117a and must establish something more egregious than mere overvaluation in order to prevail under § 12-119 . . . . (under § 12-119, taxpayer must prove either absolute nontaxability of property or manifest and flagrant disregard of statutes). Despite this demanding substantive requirement, we have construed § 12-119 to afford only a discretionary, rather than mandatory, right to interest . . . . It would be inconsistent for the legislature to have provided a more limited, discretionary, right to interest for a taxpayer who establishes a greater injury under § 12-119 than for a taxpayer who demonstrates a lesser injury under § 12-117a. In concluding that § 12-117a does not entitle a taxpayer to interest as a matter of right, we interpret the statutory language to avoid such **inconsistency.**"
- [F. W. Woolworth Company v. Town of Greenwich](#), 44 Conn. App. 494, 498, 690 A.2d 405 (1997). "Not only is there no statutory authority that allows a town to question the value

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it has assessed on real estate in our trial courts, there is a statutory prohibition preventing assessors from changing an assessed valuation on an assessment list as compared to an immediately preceding assessment list solely on the basis of **the sale price of the subject property.**"

- [Columbia Fed. Savings Bank. v. International Site Consultants](#), 40 Conn. App. 64, 69-70, 669 A.2d 594 (1996). **"Our Supreme Court has held that one cannot, by bringing a common law action of indebitatus assumpsit, circumvent the statutory time limitations of General Statutes § 12-117a (appeal from property tax valuation) and General Statutes § 12-119 (claim of wrongful tax assessment)."**
- [Wilson v. Kelley](#), 224 Conn. 110, 123, 617 A. 2d 433 (1992). **"Section 12-119 has been held to be 'merely declaratory of existing legal and equitable rights.' *Norwich v. Lebanon*, supra, 200 Conn. at 710, 513 A.2d 77; *Connecticut Light & Power Co. v. Oxford*, supra, 101 Conn. at 391-92, 126 A.1. We, therefore, read the limitation period contained in § 12-119 not as a jurisdictional prerequisite, but only as an ordinary statute of limitations. Accordingly, the plaintiffs' failure to bring the declaratory judgment action within the limitation period did not deprive the trial court of jurisdiction but merely barred the plaintiffs' declaratory judgment action as untimely."**
- [Second Stone Ridge Cooperative Corp. v. Bridgeport](#), 220 Conn. 335, 343, 597 A.2d 326 (1991). **"While an insufficiency of data or the selection of an inappropriate method of appraisal could serve as the basis for not crediting the appraisal report that resulted, it could not, absent evidence of misfeasance or malfeasance, serve as the basis for an application for relief from a wrongful assessment under 12-119."**
- [Pauker v. Roig](#), 232 Conn. 335, 336, 654 A.2d 1233 (1995). **"In this tax appeal, the only issue is whether it is proper to revalue and reassess real property once a subdivision of the property has been approved and recorded, even though the conditions attached to the subdivision approval have not yet been fulfilled."**

**ENCYCLOPEDIAS:**

- 72 [Am. Jur. 2d State and Local Taxation](#) (2012).  
§§ 629-736. Assessments and Levy  
§§ 971-1004. Remedies for wrongful government or official action
- 70C [Am. Jur. 2d Special or Local Assessments](#) (2011)
- 64A [C.J.S. Municipal Corporations](#) (2011).  
§ 2308. Assessment  
§ 2314. Time and frequency of assessment  
§ 2322. Mode of assessment

- § 2326. — Description of property
- § 2327. — Valuation
  - c. Particular method of, and factors in, valuation
- § 2347. Equalization and review of assessment
- § 2350. Procedure
- § 2353. Scope of review; Hearing; Decision
- § 2357. Relief from action of board of equalization or review
- § 2362. — Parties
- § 2363. — Pleadings
- § 2366. — Hearing and determination
- § 2367. — Evidence
- § 2370. — Further appeal or review

- 84 [C.J.S.](#) Taxation (2010)
- 9A Robert A. Fuller, *Connecticut Practice Series, [Land Use Law and Practice](#)*, 4th ed. (2015).
  - Chapter 45. Municipal property tax appeals
    - § 45: 1. General concepts
    - § 45: 2. – Exemptions
    - § 45: 3. – Limited methods of tax relief
    - § 45: 4. Summary of property assessment procedures
    - § 45: 5. – Percentage of assessment
    - § 45: 6. – Periodic revaluations of municipality
    - § 45: 7. – Summary of appeals statutes; appeals to board of tax review and state board
    - § 45: 10. Methods of valuation
    - § 45: 11. – Comparable sales approach
    - § 45: 12. – Capitalization of income approach
    - § 45: 13. – Reproduction cost less depreciation approach
    - § 45: 14. – Considerations on approaches to valuation
    - § 45: 15. Determining value; opinion evidence
    - § 45: 16. Taxation as farmland, forest land and open space land
    - § 45:17. Appeals under General Statutes § 12-119**
    - § 45: 18. Refunds of taxes in tax appeals
- 2 Joel M. Kaye et al., *Connecticut Practice Series, [Practice Book Annotated, Connecticut Civil Practice Forms](#)*, 4th ed. (2004).
  - Authors' Comment** following Form 204.6
- Richard D. Pomp, Gen. Ed., *[LexisNexis Tax Practice Insights: Connecticut](#)*, 2nd ed. (2010).
  - Conn. Gen. Stat. Sec. 12-119 May Provide Taxpayers With an Alternative Remedy in Some Cases, pg. 326.

### **TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

**ONLINE FAQ:**

- [Tax Appeal Frequently Asked Questions](http://www.jud.ct.gov/external/super/Tax/faqs.htm) (Tax Session of the Connecticut Superior Court)

<http://www.jud.ct.gov/external/super/Tax/faqs.htm>



Figure 3: Application for Relief against Excessive Tax Valuation

*Form 105.1*, Heading, and *Form 204.6*, 2 Conn. Practice Book (1997).

No. \_\_\_\_\_

Superior Court

\_\_\_\_\_  
(First Named Plaintiff)

Judicial District of \_\_\_\_\_

v.

at \_\_\_\_\_

\_\_\_\_\_  
(First Named Defendant)

\_\_\_\_\_  
(Date)

APPLICATION

To the superior court in and for the judicial district of \_\_\_\_\_ at \_\_\_\_\_ on  
(*return date*) comes (*name and residence of applicant*) applying for relief against a  
wrongful assessment of his property for taxation by the assessors of the town of \_\_\_\_\_  
and complains and says:

1. The applicant, on (*assessment date*) was the owner (*or state other interest therein*) of certain property in that town as follows:

(*Insert description of each parcel of land, building or other property*)

2. The assessors of the town valued the property on that assessment date as follows:

(*Describe each item and value placed thereon*)

3. The assessors determined that all property should be liable for taxation at \_\_\_\_\_ % of its true and actual valuation on that assessment date.

4. A tax was laid on this property which tax was computed on the assessment which was manifestly excessive and could not have been arrived at except by disregarding the statutes for determining the valuation of such property.

5. Said tax has not been paid.

The applicant prays

1. A reduction in the amount of the tax and the assessment on which it was computed.

Dated at (*place and date*).

(*name of applicant*)

BY \_\_\_\_\_

Attorney

CITATION

To Any Proper Officer:

By authority of the state of Connecticut you are hereby commanded to summon the town of \_\_\_\_\_ to appear before the superior court in and for the judicial district of \_\_\_\_\_ at \_\_\_\_\_ on (*return date*) then and there to answer unto the foregoing application of (*name and residence of the applicant*).

Hereof fail not, but due service make in the same manner as is required in case of a summons in a civil action and due return make.

Dated at (*place and date*).

\_\_\_\_\_

Commissioner of the Superior Court

(P.B. 1963, Forms 776; see Gen. Stat., § 12-119.)

## Section 3: Fair Value

A Guide to Resources in the Law Library

### **SCOPE:**

- Bibliographic resources relating to determining the fair value in tax assessment cases.

### **CURRENCY:**

- November 2017

### **DEFINITION:**

- **"The terms actual valuation, actual value, market value, fair market value, market price and fair value are synonymous in the determination of the valuation of property for assessment purposes, but the term 'fair value' is the preferable one."** [Bridgeport Gas Co. v. Town of Stratford](#), 153 Conn. 333, 335, 216 A.2d 439 (1966).
- **"In short, the true and actual value of a property is simply the 'fair value' of the property as determined by the assessor. As long as the assessor appraises the property in accordance with our laws, including the Uniform Standards of Professional Appraisal Practice, the assessed value represents the true and actual value of the real property for taxation purposes."** [Redding Life Care, LLC v. Town Of Redding](#), 308 Conn. 87, 113, 61 A.3d 461 (2013).
- **"Fair market value 'is generally best ascertained by reference to market sales.... Where this method is unavailable, however, other means are to be found by which to determine value.... A variety of such alternative methods of calculation of 'true and actual value' have been approved by the court: use of the cost of reproduction with an adjustment for depreciation;...use of the original property cost less depreciation;...and the capitalization of actual income approach.... 'As a rule, however, [n]o one method is controlling; consideration should be given to them all, if they have been utilized, in arriving at the value of the property.'"** [Uniroyal, Inc. v. Board of Tax Review](#), 174 Conn. 380, 385-386, 384 A.2d 734 (1978).
- **Highest and best use:** "A property's highest and best use is commonly accepted by real estate appraisers as the starting point for the analysis of **its true and actual value....** [U]nder the general rule of property valuation, fair [market] value, of necessity, regardless of the method of valuation, takes into account the highest and **best value of the land....** A property's highest and best use is commonly defined as the use that will most likely produce the highest market value, greatest financial return, or the most profit from the use of a particular piece **of real estate....** The highest and best use determination is inextricably intertwined with the marketplace because fair market value is defined as the price that a willing buyer would pay a willing seller based on the highest and best possible use of the land assuming, of course, that a market exists **for such optimum use....** The highest and best use conclusion necessarily affects the rest

of the valuation process because, as the major factor in determining the scope of the market for the property, it dictates which methods of valuation are applicable. Finally, a trier's determination of a property's highest and best use is a question of fact that we will not disturb unless it is **clearly erroneous.**' (Citations omitted; internal quotation marks omitted.) *United Technologies Corp. v. East Windsor*, supra, 262 Conn. 25-26." [Bay Hill Construction, Inc. v. Waterbury](#), 75 Conn. App. 832, 837, 818 A.2d 83 (2003).

### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017)
  - [Chapter 203](#). Property Tax Assessment
    - [§ 12-53](#). Addition of omitted property. Audits. Penalty.
    - [§ 12-53a](#). Assessment and taxation of new real estate construction.
    - [§ 12-63](#). Rule of valuation. Depreciation schedules.
- Superior Court Standing Orders - [Tax and Administrative Appeals Session](#)
  - [Standing Order on Tax Appeals Pending or Transferred to the Tax and Administrative Appeals Session in New Britain](#)

### **ONLINE RESOURCE:**

Appraisal Standards Board, Appraisal Foundation, [Uniform Standards of Professional Appraisal Practice](#).

<http://www.uspap.org>

### **WEST KEY NUMBERS:**

- *Municipal Corporations*  
# 987 et seq.
- *Taxation*
  - # 2640 et seq. - Review, correction, or setting aside of assessment
  - # 2690 et seq. - Judicial review or intervention
  - # 2720 - Evidence in general
  - # 2726 - Classification of property
  - # 2728 - Valuation

### **DIGESTS:**

- Dowling's Digest: *Taxation* # 13. Assessment appeals

### **COURT CASES:**

- [Fairfield Merrittview Limited Partnership v. City of Norwalk](#), 172 Conn. App. 160, 168-69, 159 A.3d 684 (2017).  
"Instead, the court compared the subject property's market rent to its contract rent and concluded that a value of \$26 **per square foot was** 'a fair resolution of the subject's potential gross **income, as of October 1, 2008.**' Accordingly, the court multiplied the market value of \$26 per square foot by the net rentable area of 243,586 square feet, resulting in a PGI of \$6,333,236, as of October 1, 2008. Finally, with regard to the overall capitalization rate, the court adopted Fazio's proposed overall capitalization rate of 8.89 percent. Applying these figures to the direct

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capitalization formula, the court concluded that the subject property's fair market value, as of October 1, 2008, was \$34,059,753. Because this figure was less than the defendant's assessment of \$49,036,800, the court ordered a reduction in the assessment to reflect the difference in the property's fair market value. Thereafter, the defendant filed its appeal."

- [Nutmeg Housing Development Corp. v. Town of Colchester](#), 324 Conn. 1, 7, 151 A.3d 358 (2016). "Instead, the trial court determined that the plaintiff had not established that it was aggrieved by the town's valuation because it found that the plaintiff's expert was not credible. The court found that Italia's opinion of fair market value was not credible **because it was** 'based [on] unrestricted sales and rental properties unrelated to **age and income restrictions ....**' (Emphasis in original.) **The trial court explained that** '[i]t is a basic principle of law governing tax appeals that it is the burden of the taxpayer to show that he or she has been aggrieved by the action of the assessor overassessing the property. *Ireland v. Wethersfield*, 242 Conn. 550, 556, 698 A.2d 888 (1997). It is also recognized by our case law that, [when] the trial court finds that the taxpayer's appraiser is unpersuasive, judgment may be [rendered] in favor of the municipality on this basis alone.'"
- [Wheelabrator Bridgeport, L.P. v. City of Bridgeport](#), 320 Conn. 332, 354-355 (2016). "Resolving the issue of whether the trial court improperly rejected the discounted cash flow approach to valuing the property as a matter of law requires us to answer two questions. First, we must determine whether the trial court, in fact, rejected the approach as a matter of law. See, e.g., *Redding Life Care, LLC v. Redding*, 308 Conn. 87, 102, 61 A.3d 461 (2013) ('the starting point in any tax appeal taken from the Superior Court...is a determination as to whether the trial court reached its decision through [1] the exercise of its discretion in crediting evidence and expert witness testimony, or [2] **as a matter of law**'). Second, if we conclude that the trial court reached its determination as a matter of law, we must decide whether that determination was proper."
- [Redding Life Care, LLC v. Town Of Redding](#), 308 Conn. 87, 107, 61 A.3d 461 (2013). "A hypothetical condition is **defined as** 'a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, **but is used for the purpose of analysis.**' (Emphasis added.) Appraisal Standards Board, Appraisal Foundation, 2012-13 Uniform Standards of Professional Appraisal Practice (2012) p. U-3, available at <http://www.uspap.org> (last visited February 21, 2013). Thus, contrary to the plaintiff's argument, the use of a hypothetical condition is **not** a violation of the Uniform Standards of Professional

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Appraisal Practice.”

- [Goodspeed Airport, LLC. v. Town of East Haddam](#), 302 Conn 70, 90, 24 A.3d 1205 (2011). “In a related context we **previously have stated that, ‘under the general statutory valuation principles articulated in § 12-63(a), the erroneous removal of a property’s open space classification virtually guarantees that a manifestly excessive valuation will follow. Specifically, when open space property is assessed at fair market value based on the highest and best use, rather than on its current usage, marked overvaluation is the result.’** *Griswold Airport, Inc. v. Madison*, supra, 289 Conn. at 741-42, 961 A.2d 338; see id., at 742, 961 A.2d 338 (improper change in classification, and resulting eightfold increase in assessment, manifestly excessive). The converse is also true: the improper refusal to classify land as open space, combined with the ongoing assessment of that land, once classified as open space, on the basis of its prior classification as commercial property, is virtually guaranteed to result in an improper, and very likely **excessive, valuation.**”
- [Pilot’s Point Marina, Inc. v. Town of Westbrook](#), 119 Conn. App. 600, 603, 988 A.2d 897 (2010). “Pursuant to § 12-63b (b), the court is required to consider both market rent and actual rent when determining fair market value **using the income capitalization method.**”
- [Breezy Knoll Association, Inc. v. Town of Morris](#), 286 Conn. 766, 777, 946 A.2d 215 (2008). “The association claims that the town’s valuation, which the court found accurate on the basis of Bigos’ testimony, runs counter to General Statutes § 12-63 (a), which requires the assessment of **property at its ‘fair market value.’** The association further claims that the town’s valuation is contrary to a rule of valuation articulated in *Pepe v. Board of Tax Review*, supra, 41 Conn. Sup. 457, concerning the assessment of real **property burdened by easements.**”
- [Sakon v. Town of Glastonbury](#), 111 Conn. App. 242, 251, 958 A.2d 801 (2008). “A **review of the record reveals that** the court’s application of the doctrine of assemblage as a method of valuation was legally correct and factually **supported.**”
- [Abington v. Avon](#), 101 Conn. App. 709, 714-715, 922 A.2d 1148 (2007). “The defendant first claims that the court improperly adopted a piecemeal approach in valuing the property. In the memorandum of decision, the court explained that because the property was unique, it determined the fair market value of the entire property by combining the value of each of its components. Relying **on** *National Amusements, Inc. v. East Windsor*, 84 Conn. App. 473, 854 A.2d 58 (2004), the defendant asserts that it is not appropriate to divide a single property into segments

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and assign a value to each when determining the fair market value of the entire property. We are not persuaded because we conclude that given the absence of comparable property, the court utilized proper valuation methods in **determining fair market value.**"

- [Sun Valley v. Stafford](#), 94 Conn. App. 696, 705, 894 A.2d 349 (2006). "Cooperative property must therefore be both assessed as a whole, without regard to the value of individual units, and taxed as a whole. We conclude that the text of § 47-204 (a) is susceptible to a single, reasonable interpretation. The plain language of § 47-204 (a) prohibits a municipality from using the true and actual value of the individual units as the basis of measurement to determine true and actual value of the cooperative as a **whole for purposes of taxation.**"
- [Bridgeport Redevelopment Agency v. Gay](#), Superior Court, Judicial District of Bridgeport at Bridgeport, No. CV 99 036 67 71 (Jan. 28, 2004) (2004 WL 303906). "**There are three** accepted methods of valuation, which may be used for the assessment of real property: (1) the comparable sales approach; (2) the capitalization of income approach; and (3) the reproduction cost less depreciation or cost approach. R. Fuller, 9 *Connecticut Practice Series: Land Use Law and Practice* (2d Ed. 1999) § 45.5, p. 397-98. The court has discretion as to which method to follow. *Northeast Datacom, Inc. v. City of Wallingford*, 212 Conn. 639, 647, 563 A.2d 688, 692 (1989). In the present case, the court determined that the only method of valuation that is appropriate is the capitalization of income approach."
- [Altschuler v. Wallingford](#), Superior Court, Judicial District of New Haven at New Haven, No. CV 02-0466846 S (Jan. 30, 2004) (2004 WL 334982). "**The highest and best use** of the subject property is its present use as a residence for the plaintiff and his family.

Mr. Ball relied on the market data or direct sales comparison in reaching his opinion as to fair market value. Mr. Clark primarily relied on the same approach although he also utilized cost approach. In reaching their respective opinions based on market data, the two appraisers used different comparable sales. Mr. Ball's report contained three comparables and Mr. Clark's report four comparables. Mr. Ball gave his opinion that the fair market value of the property is \$370,000.00. Mr. Clark opined that the value using the cost approach was \$452,720.00 and using the market data approach the value was \$450,000.00.

On December 12, 2002 the plaintiff filed an application for a residential loan. On the application the plaintiff **stated under oath that the 'original cost'** of the property was \$500,000.00 and that its "present market value" was \$600,000.00. While the court is of the opinion that in determining the fair market value of the subject property the market data approach is the approach which

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primarily should be relied on, the value of real property placed on it by the owner is of some relevance.

The court has reviewed all of the evidence, including the reports prepared by each appraiser and finds that the comparable sales relied on by Mr. Clark are of more assistance in determining fair market value than those used by Mr. Ball. Mr. Clark's appraisal is much more detailed with respect to his comparables than is Mr. Ball's appraisal which **he described as a 'short form narrative appraisal.'**

The plaintiff has the burden of proving that the assessment by the defendant was excessive. Based on all the evidence the court finds that the plaintiff has not met his burden of proof. The court finds that the assessment levied by the defendant does represent 70 percent of the **fair market value of the subject property."**

- [Aetna Life Ins. Co. v. Middletown](#), 77 Conn. App. 21, 32, **822 A.2d 974 (2003)**. "We next address Aetna's cross appeal, which challenges the court's determination of the true and actual value of the subject property. In its principal brief, Aetna generally claims that in valuing the **subject property, the court 'utilized the incorrect legal standard.'** Specifically, Aetna claims that the court improperly utilized a reproduction cost approach instead of a replacement cost approach, and determined the subject **property's 'use value' to Aetna and its employees rather than its 'fair market value.'** Mindful of our deferential standard of review, we find Aetna's arguments unpersuasive and conclude that the court's determination of the value of the subject property was not clearly **erroneous."**
- [Fertig v. Greenwich Bd., Assessment App.](#), Superior Court, Judicial District of Stamford at Stamford, No. CV 020190345S (Dec. 30, 2003) (2003 WL 23191974). "While the sale price is evidence of value, when other factors are present which undercut the reliability of the sale as a measure of value, it need not be accorded great weight. **Thaw v. Fairfield**, 132 Conn. 173, 175 (1945)."
- [Uniroyal, Inc. v. Board of Tax Review](#), 174 Conn. 380, 386, **389 A.2d 734 (1978)**. "In the present case, the parties agree that the paucity of sales of property similar to the Uniroyal complex renders the market data approach inadequate. Rather, both parties rely on a valuation derived from the use of an income-capitalization method, but the approaches taken by each of the two expert appraisers **differ significantly."**
- [Bridgeport Gas Co. v. Stratford](#), 153 Conn. 333, 335, 216 **A.2d 439 (1966)**. "Since the court found that there had been no sales of comparable gas distribution systems in Connecticut, evidence of market value in its strict sense was not available, and it is proper to utilize other evidence **of fair value."**



## **ENCYCLOPEDIAS:**

- 72 [Am. Jur. 2d](#) *State and Local Taxation* (2012).  
§§ 604-711. Assessments and Levy  
§ 648 et seq. Valuation  
§§ 961-993. Remedies for wrongful government or official action
- 70C [Am. Jur. 2d](#) *Special or Local Assessments* (2011)
- 64A [C.J.S.](#) *Municipal Corporations* (2011).  
§ 2322. Mode of assessment  
§ 2326. — Description of property  
§ 2327. — Valuation  
c. Particular method of, and factors in, valuation

## **TEXTS & TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 9A Robert A. Fuller, *Connecticut Practice Series, [Land Use Law and Practice](#)*, 4th ed. (2015).  
Chapter 45. Municipal property tax appeals  
§ 45: 1. General concepts  
§ 45: 2. — Exemptions  
§ 45: 3. — Limited methods of tax relief  
§ 45: 4. Summary of property assessment procedures  
§ 45: 5. — Percentage of assessment  
§ 45: 6. — Periodic revaluations of municipality  
§ 45: 7. — Summary of appeals statutes; appeals to board of tax review and state board  
**§ 45.10. Methods of valuation**  
§ 45: 11. — Comparable sales approach  
§ 45: 12. — Capitalization of income approach  
§ 45: 13. — Reproduction cost less depreciation approach  
§ 45: 14. — Considerations on approaches to valuation  
§ 45: 15. Determining value; opinion evidence  
§ 45: 16. Taxation as farmland, forest land and open space land  
§ 45: 18. Refunds of taxes in tax appeals
- Dale P. Faulkner et al., *[Connecticut Trial Evidence Notebook](#)*, 2nd ed. (2016).  
Page F-3, Fair Market Value
- 1 R. Powell, *[The Law of Real Property](#)* (2016).  
§ 10B.06 [4] Real Estate Taxes – Listing, Appraisal and Assessment  
[a] Local Statutory Scheme  
[b] Listing  
[c] Appraisal  
[i] Need to Determine Value  
[ii] Sale Price Versus Fair Market Value  
[iii] The Market Data Method  
[iv] The Cost Method  
[v] The Income Method  
[d] Assessment

§ 10B.06 [5] Real Estate Taxes – Valuation in the Courts

- [a] In General
- [b] The Overvaluation Theory
- [c] The Uniformity Theory

- Appraisal Institute, [\*The Appraisal of Real Estate\*](#) (12<sup>th</sup> ed. 2001).
  - Part I. Fundamentals
  - Part II. Data collection and analysis
  - Part III. Cost analysis
    - Chapter 13. Land or site valuation
    - Chapter 14. The cost approach
    - Chapter 15. Building cost estimates
    - Chapter 16. Depreciation estimates
  - Part IV. Sales Comparison Analysis
    - Chapter 17. The sales comparison approach
    - Chapter 18. Adjustment and analytical techniques in the sales comparison approach
    - Chapter 19. Application of the sales comparison approach
  - Part V. Income Capitalization analysis
    - Chapter 20. Income capitalization approach
    - Chapter 21. Income and expense analysis
    - Chapter 22. Direct capitalization
    - Chapter 23. Yield capitalization—Theory and basic application
    - Chapter 24. Discounted cash flow analysis and special applications in income capitalization
  - Part VI. Reconciliation and reporting
    - Chapter 25. Reconciling value indications
    - Chapter 26. The appraisal report
- Appraisal Institute, [\*A Business Enterprise Value Anthology\*](#) (2001).
  - Part I. General Issues
  - Part II. Hotels and Motels
  - Part III. Shopping Centers
  - Part IV. Health Care Facilities/Senior Housing
  - Part V. Miscellaneous Property Types
- Lincoln Institute of Land Policy, [\*Legal Issues in Property Valuation and Taxation: Cases and Materials\*](#) (2007).

Table 2: Standard of Appellate Review of Trial Court Decisions

Clearly Erroneous Standard of Appellate Review	
<p><a href="#">Breezy Knoll Association, Inc. v. Town of Morris</a>, 286 Conn. 766, 776-777, 946 A.2d 215 (2008).</p>	<p>“Although the question of overvaluation usually is a factual one subject to the clearly erroneous standard of review; see <i>United Technologies Corp. v. East Windsor</i>, 262 Conn. 11, 23, 807 A.2d 955 (2002); when a tax appeal, like the present one, raises a claim that challenges the propriety of a particular appraisal method in light of a generally applicable rule of law, our review of the trial court's determination whether to apply the rule is plenary. See <i>Sheridan v. Killingly</i>, 278 Conn. 252, 260, 897 A.2d 90 (2006) (applying plenary review to claim that trial court improperly rejected assessor's attribution of value of leasehold interest to lessor's property); see also <i>Torres v. Waterbury</i>, 249 Conn. 110, 118, 733 A.2d 817 (1999) (legal conclusions in municipal tax appeal subject to plenary review). We now turn to the issue raised on appeal.”</p>
<p><a href="#">Sun Valley v. Stafford</a>, 94 Conn. App. 696, 703-704, 894 A.2d 349 (2006).</p>	<p>“In this case, the court found that the plaintiff was aggrieved and then determined the value of the property, on the basis of the testimony and report of the defendant's appraiser. Ordinarily, a court's decision as to the value of the property is reviewed pursuant to the clearly erroneous standard. See <i>Grolier, Inc. v. Danbury</i>, 82 Conn. App. 77, 78, 842 A.2d 621 (2004). In some cases, however, on the basis of the substance of the particular claims of a taxpayer, the standard of review is plenary because there is a question of law, such as the construction of a statute. See <i>Albahary v. Bristol</i>, 276 Conn. 426, 436, 886 A.2d 802 (2005); <i>Paul Dinto Electrical Contractors, Inc. v. Waterbury</i>, 266 Conn. 706, 714-15, 835 A.2d 33 (2003); <i>Jones v. O'Connell</i>, 189 Conn. 648, 652, 458 A.2d 355 (1983); <i>Davis v. Westport</i>, 61 Conn. App. 834, 842-43, 767 A.2d 1237 (2001).”</p>
<p><a href="#">Nolan v. City of Milford</a>, 92 Conn. App. 607, 610, 886 A.2d 493 (2005).</p>	<p>“A view of the subject matter in dispute may be taken by the court, in the exercise of a sound discretion, whenever it is necessary or important to a clearer understanding of the issues. . . . Information obtained through a visual observation of the locus in quo is just as much evidence as any other evidence in the case. . . . Evidence obtained by visual inspection is not subject to appellate review. . . . Conclusions based on such evidence are entitled to great weight on appeal . . . and are subject to <b>review only for clear error.</b>’ (Internal quotation marks omitted.) <i>Beneduci v. Valadares</i>, 73 Conn. App. 795, 801, 812 A.2d 41 (2002). Although we are not in a position to review the visual inspection of the property that was conducted by the court; see <i>id.</i>; the conclusions drawn from such inspection are <b>reviewable under the clearly erroneous standard . . .</b>”</p>

<p><a href="#">Grolier, Inc. v. City of Danbury</a>, 82 Conn. App. 77, 80, 842 A.2d 621 (2004).</p>	<p>"We afford wide discretion to the court's determination of the value of property in a property tax appeal. <i>Carol Management Corp. v. Board of Tax Review</i>, 228 Conn. 23, 41, 633 A.2d 1368 (1993). When the court acts as the fact finder, it may accept or reject evidence regarding valuation as it deems appropriate. <i>First Bethel Associates v. Bethel</i>, 231 Conn. 731, 741, 651 A.2d 1279 (1995). The court in this case was presented with detailed expert and lay testimony, from which it reached a logical conclusion as to the value of the property. In light of our examination of the evidence in the record, we conclude that the judgment of the court was not clearly erroneous."</p>
<p><a href="#">Ress v. Suffield</a>, 80 Conn. App. 630, 634-635, 836 A.2d 475 (2003).</p>	<p>"In a tax appeal, the court may 'consider any facts that are relevant to determining whether a taxpayer actually has been overassessed.' <i>Konover v. West Hartford</i>, supra, 242 Conn. [727,] 741. 'If the trial court finds that the taxpayer has failed to meet his burden . . . [it] may render judgment for the town on that basis alone.' <i>Ireland v. Wethersfield</i>, supra, 242 Conn. [550,] 557-58. On the basis of our review of the record, we conclude that the court properly determined that the plaintiff failed to satisfy his burden of establishing overvaluation. . . .</p> <p>"In all cases, the burden remains on the property owner, as a threshold issue, to establish overvaluation . . ."</p>
<p><a href="#">Aetna Life Ins. Co. v. Middletown</a>, 77 Conn. App. 21, 25-26, 822 A.2d 330 (2003).</p>	<p>"Before addressing the merits of the parties' claims, we first set forth the well settled legal principles underlying a § 12-117a tax appeal, as well as our applicable standard of review. 'In § 12-117a tax appeals, the trial court tries the matter de novo and the ultimate question is the ascertainment of the true and actual value of the [taxpayer's] property. . . . At the de novo proceeding, the taxpayer bears the burden of establishing that the assessor has overassessed its property. . . . Once the taxpayer has demonstrated aggrievement by proving that its property was overassessed, the trial court [will] then undertake a further inquiry to determine the amount of the reassessment that would be just. . . . The trier of fact must arrive at [its] own conclusions as to the value of [the taxpayer's property] by weighing the opinion of the appraisers, the claims of the parties in light of all the circumstances in evidence bearing on value, and his own general knowledge of the elements going to establish value . . . .'"</p>

[United Technologies Corp. v. East Windsor](#), 262 Conn. 11, 23, 807 A.2d 955 (2002).

"We review the trial court's conclusion in a tax appeal pursuant to the well established clearly erroneous standard of review. **Under this deferential standard, '[w]e do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached. Rather, we focus on the conclusion of the trial court, as well as the method by which it arrived at that conclusion, to determine whether it is legally correct and factually supported'. . . . 'A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.'** (Citations omitted; internal quotation marks omitted.)"

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Table 3: Reported Connecticut Cases on Municipal Tax Appeals,  
January 2007 – November 2017

Municipal Tax Appeals Connecticut Supreme and Appellate Court Opinions (January 2007 – November 2017)	
<p><a href="#">Fairfield Merrittview Limited Partnership v. City of Norwalk</a>, 172 Conn. App. 160, 162, 159 A.3d 684 (2017).</p>	<p>"In this real estate tax appeal, the defendant city of Norwalk appeals from the judgment of the trial court sustaining the appeal of the plaintiff, Fairfield Merrittview SPE, LLC, pursuant to General Statutes § 12-117a, and ordering the reduction of the defendant's tax assessment levied against the plaintiff's real property. The defendant raises two arguments in support of its claim that the court erred when it reduced the subject property's assessed fair market value, as of October 1, 2008, from \$49,036,800 to \$34,059,753."</p>
<p><a href="#">Chestnut Point Realty, LLC v. Town of East Windsor</a>, 324 Conn. 528, 530, 153 A.3d 636 (2017)</p>	<p>"The question presented by this case is whether, for purposes of this limitation period, such application is made upon the filing of the required appeal documents in the Superior Court, or rather, when those appeal documents have been served upon the taxing municipality. The plaintiff, Chestnut Point Realty, LLC, appeals from the judgment of the Appellate Court affirming the trial court's dismissal of its municipal tax appeal due to untimeliness. <i>Chestnut Point Realty, LLC v. East Windsor</i>, 158 Conn. App. 565, 575, 119 A.3d 1229 (2015). The plaintiff claims that, under the plain language of § 12-117a, its appeal was timely commenced upon the filing of its appeal documents in the Superior Court, even though the appeal was not served on the defendant, the town of East Windsor (town), until a date beyond the expiration of the two month appeal period. We disagree and, accordingly, affirm the judgment of the Appellate Court.</p>
<p><a href="#">Kettle Brook Realty, LLC v. Town of East Windsor</a>, 324 Conn. 544, 546-47, 153 A.3d 1247 (2017)</p>	<p>"This case raises the issue of whether a municipal tax appeal brought pursuant to General Statutes § 12-117a is commenced, for purposes of meeting the limitation period prescribed by that statute, by the filing of the tax appeal with the Superior Court or, rather, upon the service of the appeal on the municipal taxing authority."</p>
<p><a href="#">Nutmeg Housing Development Corp. v. Town of Colchester</a>, 324 Conn. 1, 3, 151 A.3d 358 (2016).</p>	<p>"In this appeal, we consider whether the trial court correctly determined that the plaintiff, Nutmeg Housing Development Corporation, failed to establish aggrievement in that it failed to prove that the defendant, the town of Colchester (town), had overvalued its property for tax purposes. After a bench trial, the court found that the plaintiff had failed to establish that it was aggrieved by the town's valuation because the court found</p>

	<p>that the plaintiff's expert did not present sufficient, credible evidence to establish that the town had overvalued the property. The trial court rendered judgment for the town, and the plaintiff appealed. We conclude that the trial court's determination of credibility is supported by the record, and, thus, we affirm the judgment of the trial court."</p>
<p><a href="#">Cornelius v. Arnold</a>, 168 Conn. App. 703, 705-06, 147 A.3d 729 (2016).</p>	<p>"The self-represented plaintiff, Frederick Cornelius, appeals from the summary judgment rendered in favor of the defendant, Linda Arnold, the tax assessor of the town of Farmington. On appeal, the plaintiff claims that the trial court improperly concluded that (1) his action for relief from wrongful assessment was untimely because he commenced the action beyond the one year time limitation set forth in General Statutes § 12-119, and (2) he failed to establish a genuine issue of material fact as to whether a continuing course of conduct tolled that time limitation. We disagree with both claims and, accordingly, affirm the judgment of the trial court."</p>
<p><a href="#">Fairfield Merrittview Limited Partnership v. City of Norwalk</a>, 320 Conn. 535, 539 (2016).</p>	<p>"The plaintiffs claim that the Appellate Court improperly reversed the trial court's judgment because the tax appeal to the trial court, although initially brought by a nonaggrieved party, the partnership, also was maintained by the LLC, which was an aggrieved party that properly had been added to the trial court proceedings by way of a promptly filed amended complaint."</p>
<p><a href="#">Wheelabrator Bridgeport, L.P. v. City of Bridgeport</a>, 320 Conn. 332, 337-338 (2016).</p>	<p>"Wheelabrator filed the present appeal from the judgments of the trial court, claiming, among other things, that the trial court improperly (1) granted the city's motion to dismiss the first appeal, (2) improperly valued the property in the second appeal, and (3) failed to consider evidence of the city's wrongful conduct in the second appeal. The city cross appealed, claiming that, in the second appeal, the trial court improperly (1) denied its motion to dismiss, (2) admitted the appraisal testimony of Wheelabrator's two expert witnesses, and (3) excluded developer's profit from its valuation of the property based on the cost to construct the facility."</p>
<p><a href="#">Kasica v. Town of Columbia</a>, 309 Conn. 85, 105, 70 A.3d 1 (2013).</p>	<p>"We therefore reaffirm this court's conclusion in <i>84 Century Ltd. Partnership v. Board of Tax Review</i>, supra, 207 Conn. at 262, 541 A.2d 478, that § 12-55 provides assessors with broad authority to conduct interim assessments of real property and, further, conclude that the plain language of General Statutes (Rev to 2007) § 12-53a is applicable only to '[c]ompleted new construction....' Accordingly, we conclude that the assessor in the present case had the authority, pursuant to § 12-55(b), to conduct the interim assessments of the plaintiff's property and assign value to the partially completed construction for purposes of the 2008 and 2009 grand lists."</p>

<p><a href="#">Redding Life Care, LLC v. Town Of Redding</a>, 308 Conn. 87, 115, 61 A.3d 461 (2013).</p>	<p>"For the foregoing reasons, we conclude that the trial court rejected the plaintiff's valuation of its property for lack of credibility because it was based on calculations and a formula that did not reflect a reasonable value of the real estate. The plaintiff thus failed to meet its burden of proving aggrievement under § 12-117a, and the trial court properly rejected that claim for lack of evidentiary support. We further conclude that the trial court did not abuse its discretion in rejecting the plaintiff's evidence and that it properly determined that the plaintiff failed to meet its burden of proving overvaluation under § 12-119."</p>
<p><a href="#">Samnard Associates, LLC v. City of New Britain</a>, 140 Conn. App., 290, 298-299, 58 A. 3d 377 (2013).</p>	<p>"So this is just to clarify that our laws require that the change [in the] assessment stays in effect until the next reval[uation], <b>and I urge adoption.</b>" 52 H.R. Proc. 16, Pt., 2009 Sess., p. 5092. The amendment was adopted."</p>
<p><a href="#">City of Bridgeport v. White Eagle's Society Of Brotherly Help, Inc., et al.</a>, 140 Conn. App. 663, 670-671, 59 A.3d 859 (2013).</p>	<p>"In sum, we agree with the court's order overruling the defendant's objection to the motion for summary judgment, in which the court found that the issues the defendant sought to adjudicate by counterclaim could have been addressed earlier by following <b>appropriate statutory procedures</b>, 'either by (1) timely appealing from the assessments to the city's board of assessment appeals pursuant to General Statutes §§ 12-111 and 12-112, and from there by timely appealing to the trial court pursuant to General Statutes § 12-117a, or (2) timely bringing a direct action pursuant to General Statutes § 12-119.' <i>Danbury v. Dana Investment Corp.</i>, 249 Conn. 1, 12-14, 730 A.2d 1128 (1999).</p>
<p><a href="#">Goodspeed Airport, LLC. v. Town of East Haddam</a>, 302 Conn 70, 85, 24 A.3d 1205 (2011).</p>	<p>"<b>According to the plaintiff, a taxpayer is sufficiently aggrieved and entitled to a de novo determination of value when their property is wrongfully misclassified under § 12-107e (d), and then assessed at an improper valuation. The defendant disagrees, claiming that the Appellate Court properly concluded that, pursuant to § 12-117a, the plaintiff was required to establish not simply that its application for open space classification was wrongly denied, but also that the denial of its application resulted in an overassessment. We agree with the plaintiff.</b>"</p>
<p><a href="#">Megin v. Town of New Milford</a>, 125 Conn. App. 35, 40, 6 A. 3d 1176 (2010).</p>	<p>"This appeal does not involve an action instituted pursuant to the accidental failure of suit statute. It involves a municipal tax appeal commenced by an individual who concededly is not the record owner of the assessed property. As our Supreme Court has <b>observed, '[p]laintiffs are not fungible, even if they are</b></p>



	<p>represented by the same attorney and have similar interests.’ <i>Sadloski v. Manchester</i>, supra, 235 Conn. at 643, 668 A.2d 1314. Because the plaintiff failed to demonstrate the requisite aggrievement under § 12-117a, the court properly dismissed the appeal for lack of subject matter jurisdiction.”</p>
<p><a href="#">Hartford/Windsor Healthcare Properties v. Hartford</a>, 298 Conn. 191, 192, 3 A.3d 56 (2010).</p>	<p>“The dispositive issue in this appeal is whether the trial court properly affirmed the decision of the board of assessment appeals (board) for the defendant, the city of Hartford (city), which had affirmed the classification by the city’s tax assessor of two parcels of real estate on which nursing homes were located as commercial properties for purposes of real estate taxation on the ground that the nursing homes did not contain ‘dwelling units used for human habitation’ to otherwise be deemed apartment property or residential for the purposes of General Statutes § 12-62n (a) (1) and (3).”</p>
<p><a href="#">Pilot’s Point Marina, Inc. v. Town of Westbrook</a>, 119 Conn. App. 600, 601-602, 988 A.2d 897 (2010).</p>	<p>“All parties agree that the property is being used for its highest and best use. It derives income from slip rentals, summer and winter boat storage, and the rental of industrial, commercial and residential building space. . . .</p> <p>Pursuant to § 12-63b (b), the court is required to consider both market rent and actual rent when determining fair market value using the income capitalization method. See also <i>First Bethel Associates v. Bethel</i>, 231 Conn. 731, 740, 651 A.2d 1279 (1995) (‘the statute requires that, in determining a property’s ‘market rent,’ the assessor and, therefore, the court, in determining the fair market value of the property, must consider <i>both</i> [1] net rent for comparable properties, and [2] the net rent derived from any existing leases on the <b>property</b>’ [emphasis in original]). Moreover, ‘if the property is devoted to the use for which it is best adapted and is in a condition to produce or is producing its maximum income, the actual rental is a very important element in ascertaining its value.’ <i>Federated Dept. Stores, Inc. v. Board of Tax Review</i>, 162 Conn. 77, 83, 291 A.2d 715 (1971).”</p>
<p><a href="#">Wiele v. Board Of Assessment Appeals of the City Of Bridgeport</a>, 119 Conn. App. 544, 554, 988 A.2d 889 (2010).</p>	<p>“Substantively, the arguments of the plaintiff are the same ones that a party would make to claim equitable tolling. The doctrine of equitable tolling is accepted in our state and has been applied by our courts to limitations in other statutes. See, e.g., <i>Williams v. Commission on Human Rights &amp; Opportunities</i>, 257 Conn. 258, 264, 777 A.2d 645 (2001) (time requirement for filing discrimination petition pursuant to General Statutes § 46a-82 [e] not jurisdictional and subject to waiver and equitable tolling). Equitable tolling has been defined as the following: ‘The doctrine that the statute of limitations will not bar a claim if the plaintiff, despite diligent efforts, did not discover the injury until after the limitations period had expired.’ Black’s Law Dictionary (9th Ed. 2009).”</p>

<p><a href="#">Massey v. Town of Branford</a>, 119 Conn. App. 453, 456-457, 988 A.2d 370 (2010).</p>	<p>"In the operative fourteen count complaint, the plaintiffs allege (1) excessive valuation against the town pursuant to General Statutes § 12-117a, (2) wrongful assessment against the town pursuant to General Statutes § 12-119, (3) unlawful, malicious, wanton, wilful, reckless and negligent actions, inactions or omissions of the town, Milici, Neal and Clyne, (4) invalidation of the October 1, 2006 grand list under General Statutes § 12-121f, (5) violations of General Statutes §§ 1-210, 1-212, 7-27 and 12-121f (15), (6) negligent supervision by the town, (7) civil conspiracy, (8) fraudulent conveyance under common-law principles and General Statutes § 52-552 et seq., and (9) fees and penalties for official misconduct under General Statutes § 12-170 against Milici and Neal."</p>
<p><a href="#">J.C. Penney Corporation v. Town of Manchester</a>, 291 Conn. 838, 839, 970 A.2d 704 (2009).</p>	<p>"The plaintiff, J.C. Penney Corporation, Inc., appeals from the judgment of the trial court dismissing its tax appeal brought pursuant to General Statutes §§ 12-117a and 12-119. On appeal, the plaintiff claims that the trial court improperly concluded that: (1) the plaintiff did not meet the applicable tax filing requirements, and, therefore, was not aggrieved and could not litigate its overvaluation claim; (2) the plaintiff used an improper valuation standard; and (3) the defendant, the town of Manchester (town), properly used the modified cost approach method of assessment."</p>
<p><a href="#">Griswold Airport, Inc. v. Town of Madison</a>, 289 Conn. 723, 725, 961 A.2d 338 (2008).</p>	<p>"The primary issue before the court is whether a municipal tax assessor's termination of an open space classification for property on the basis of its proposed use, as opposed to its current use, was proper. The outcome of this appeal turns on the proper interpretation of General Statutes (Rev. to 2003) § 12-504h, a provision that gives municipal tax assessors discretionary authority to remove open space classifications previously placed on real property within their municipalities when the use of that property has changed. See also General Statutes § 12-107e."</p>
<p><a href="#">Motiva Enterprises, LLC v. Stratford</a>, 111 Conn. App. 357, 357, 961 A.2d 425 (2008).</p>	<p>"The central issue in this appeal is whether the trial court improperly reduced the tax assessment of the plaintiff's real property by giving improper weight to the testimony of the plaintiff's appraiser."</p>
<p><a href="#">Sakon v. Town of Glastonbury</a>, 111 Conn. App. 242, 243-244, 958 A.2d 801 (2008).</p>	<p>"On appeal, the plaintiff claims that the court improperly (1) concluded that he was not aggrieved, (2) applied the doctrine of assemblage to determine the value of properties appearing separately on the grand list, (3) determined that the highest and best use of his property was commercial development, (4) concluded that the assessment on the property was proper even though there was no possible use of the property to</p>

	generate income and (5) found that evidence of the predatory nature of the defendant's commercial property assessments was not admissible."
<a href="#">Wysocki v. Town of Ellington</a> , 109 Conn. App. 287, 294, 951 A.2d 598 (2008).	"The plaintiff's next claim that the court improperly failed to conclude that the assessment of the subject parcels, according to their highest and best use, was manifestly excessive and illegal under § 12-119. Alternatively, the plaintiff's argue that even if the assessor properly declassified the properties, procedural irregularities rendered the board's decision to increase the assessment illegal."
<a href="#">Breezy Knoll Association, Inc. v. Town of Morris</a> , 286 Conn. 766, 767, 946 A.2d 215 (2008).	"This case concerns the valuation, for property tax purposes, of common areas owned by a neighborhood homeowners' association when those common areas are subject to extensive encumbrances that solely benefit the association's <b>neighborhood resident members.</b> "
<a href="#">Hotshoe Enterprises, LLC v. Hartford</a> , 284 Conn. 833, 937 A.2d 689 (2008).	"The central issue of the applicability of the exemption from municipal property tax to the plaintiffs' ownership interest in the leasehold interest under § 12-64 (c) properly was resolved in the thoughtful and comprehensive memorandum of decision filed by the trial court. Because that memorandum of decision fully addresses the arguments raised in the present appeal, we adopt the trial court's well reasoned decision as a statement of the facts and the applicable law on that issue."
<a href="#">Abington v. Town of Avon</a> , 101 Conn. App. 709, 922 A.2d 1148 (2007).	"The defendant, the town of Avon, appeals from the judgment of the trial court determining that the total assessed value of the property, which is owned by the plaintiff, Abington, LLC, as of October 1, 2003, was excessive and should have been valued at \$3,143,512 instead of \$4,294,890. The defendant claims that the court's valuation was clearly erroneous because it allegedly (1) adopted a piecemeal approach in valuing the property (2) based its valuation on dissimilar sales and on a hypothetical property and (3) determined a fair market value that was not supported by the record."
<a href="#">NSA Prop. v. City of Stamford</a> , 100 Conn. App. 262, 917 A.2d 1034 (2007).	"The second, and the only claim before us, was a claim of wrongful assessment brought pursuant to General Statutes § 12-119, which alleged that the property was exempt from taxation pursuant to General Statutes § 12-81." (footnote 7)

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your [local law librarian](#) to learn about the tools available to you to update cases.

Table 4: Selected Unreported Connecticut Cases on Municipal Tax Appeals

Selected Unreported Connecticut Decisions: Municipal Tax Appeals	
Connecticut Tax Session (Superior Court)	<b>Selected Recent Tax Court Decisions (full-text):</b> <a href="http://www.jud.ct.gov/external/super/Tax/recent.htm">http://www.jud.ct.gov/external/super/Tax/recent.htm</a>
<u>Sweet Potatoes, LLC v. Town of Seymour</u> , Superior Court, Judicial District of Ansonia-Milford, No.CV-146016022S (March 27, 2015) (2015 WL 1919080).	"The defendants do not claim that the appeal was not timely filed. Admittedly, it was filed within the statutory time frame. Therefore, the court holds that the plaintiff's appeal form substantially complied with the requirements of § 12-111(a) despite not including the plaintiff's estimate of the property value or date of signature."
<u>Tucker v. Branford</u> , Superior Court, Judicial District of New Haven at New Haven, No. CV-07-4025405 S (June 7, 2010) (2010 WL 2817502).	"The law is clear that a taxpayer, although he or she, is not an expert can testify as to the value of his or her real estate, <i>Misisco v. LaMaita</i> , 150 Conn. 680, 684 (1963), <i>Porter v. Thame</i> , 98 Conn.App. 336, 341 (2006), cf. <i>Lovejoy v. Town of Darien</i> , 131 Conn. 533, 536 (1945). Any property owner can make such a valuation. Here we have the very property owner who brings this appeal placing a value on the property by the very act of purchase concerning of course the same lot that is the subject of the valuation dispute — in that sense it is the perfect <b>comparative 'sale.'</b> Nothing was offered to indicate the plaintiff was claiming the purchase here was not an arms length transaction or that other factors led her to believe she paid more than the property is worth."
<u>Kawa v. Town of Hartland</u> , Superior Court, Judicial District of Litchfield, No. CV-03-00090729-S (Mar. 29, 2004) (2004 Conn. Super. LEXIS 807).	"The court finds . . . [the Plaintiff's expert's] appraisal to be the most credible. She is an experienced and credentialed appraiser. She had a command of the particulars of the property, her methodology and appraisal principles which made her testimony at the hearing, both on direct and cross examination, quite persuasive. It is impossible to determine either the subdivision potential of the subject property or the value of that unascertainable subdivision potential without knowing the impact of the wetlands regulations on the ability to develop the property. Basing a value on the potential to subdivide the property based solely on the evidence presented in this case would be speculative. The court cannot reasonably infer the extent to which this property could be subdivided or the value to attribute to that potential.

	<p>"The court finds that the plaintiffs have borne their burden of proving that the property was over-appraised by a fair preponderance of the evidence. Having weighed the testimony of the experts and the parties' claims in light of all of the circumstances in evidence bearing on value and the court's own knowledge of the issues attendant to subdividing property located in or including a wetlands area, the court further finds that the value of the property is \$370,000."</p>
<p><u>Yankee Gas Co. v. City of Meriden</u>, Superior Court, Judicial District of Tolland at Rockville, No. X07-CV-96 0072560S (Apr. 20, 2001) (2001 WL 477424) (2001 Conn. Super. LEXIS 1119).</p>	<p><b>"The defendant argues by way of special defense that the plaintiffs' payment under protest of seventy-five percent of the assessed tax bars them from bringing a claim under § 12-119. This argument is without merit. While § 12-119 permits a taxpayer to bring suit without paying a disputed tax, nowhere does the statute prevent a compliant taxpayer from paying a disputed tax, or a portion of it, in order to preserve a claim that the tax is unlawful or manifestly excessive. A fair reading of the statute leads the court to the belief that its language permits a taxpayer to appeal an unlawful tax without making any payment, such as, for example, in a situation in which the taxpayer claims the property is not located within the taxing jurisdiction, but the refusal to pay any taxes is not a prerequisite to the availability of § 12-119 relief."</b></p>
<p><u>Yankee Gas Co. v. City of Meriden</u>, Superior Court, Judicial District of Tolland at Rockville, No. X07-CV-96 0072560S (Apr. 20, 2001) (2001 WL 477424) (2001 Conn. Super. LEXIS 1119).</p>	<p><b>"For the reasons stated, the assessments of the plaintiffs' personal property for the tax years 1991 through 1998 were unlawful and manifestly excessive. Having concluded that the assessments are unlawful, the court may provide relief as it believes just and equitable pursuant to § 12-119. The plaintiffs have also filed claims pursuant to § 12-117a which allows the court to value the property de novo. The court finds this to be the appropriate relief. Accordingly, in this instance the principal relief under the two statutes is the same."</b></p>
<p><u>Brennan v. City of New London</u>, Superior Court, Judicial District of New London at New London, No. 555273 (Jan. 19, 2001) (2001 WL 88248) (2001 Conn. Super. LEXIS 125).</p>	<p><b>"Although no cases can be found in which a court granted attorney's fees to a plaintiff under § 12-117a, courts have done so in tax appeal cases involving General Statutes § 12-119, the companion statute of § 12-117a, without concluding that the defendant town acted in bad faith."</b></p>

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