

NO. CV 054015716S : SUPERIOR COURT  
FRANK L. KUCHINSKI : JUDICIAL DISTRICT OF  
v. : NEW BRITAIN  
STRATFORD BOARD OF  
ASSESSMENT APPEALS : APRIL 24, 2009

**MEMORANDUM OF DECISION**

The plaintiff, Frank L. Kuchinski, filed this real property tax appeal contesting the valuation placed on his property located at 70 Shoreline Drive by the town of Stratford's assessor for the Grand List of October 1, 2004 and subsequent years.

The issue here is what was the fair market value of the plaintiff's property as of October 1, 2004, the date of the last town-wide revaluation. The town's assessor determined that the fair market value of the subject property was \$586,000. On the other hand, the plaintiff's appraiser, Paul Quiroga (Quiroga), determined that the fair market value of the subject property was \$500,000. The town's appraiser, Scott Corner (Corner), determined that the subject property had a fair market value of \$600,000.

The subject property was originally part of a group of 62 freestanding units that had been converted from cottages to condominium units belonging to the Beach Drive Condominium Association (hereinafter the condo association). The condo association's site contains 7.17 acres of land fronting on Long Island Sound (the Sound). There is a

private road that separates the subject from the beach. In 1992, a storm destroyed several cottages, including cottages that previously were in front of the subject, leaving a balance of 55 freestanding structures, as of the last revaluation date. The subject is located in a B-5 flood zone which leaves the beach property prone to flooding after a super high tide.

The town's appraiser Corner described the subject property as follows: "The subject unit consists of a two (2) story wood frame structure which was built in 1923 and remodeled in 2000. The unit was lifted to elevation 13' per Fema and Town standards. The unit consists of five (5) rooms, three (3) bedrooms, and two (2) full bathrooms for a total of 1700 square feet. The subject has two (2) decks[,] one to the rear and one in the front and a small balcony [on] the second floor. The structure appears in good condition." (Defendant's Exhibit A, p. 2.)

The subject benefits from having hot air gas heat, central air conditioning, a sanitary sewer connection and public water. Although some of the units in this condo association are used only seasonably, the subject is used year-round. The condominium units in this association tend to remain in the same family, passing from one generation to another generation.

In arriving at a valuation of \$500,000, the plaintiff's appraiser, Quiroga, relied on the following five sales that he determined were comparable to the subject:

	<u>Address</u>	<u>Sale Price</u>	<u>Sale Date</u>
1)	50 Harbor View Place, Stratford	\$490,000	July 2, 2004
2)	89 Shoreline Drive, Stratford	\$300,000	June 10, 2004

- |    |                                 |           |               |
|----|---------------------------------|-----------|---------------|
| 3) | 1 Merwin Avenue, Milford        | \$525,000 | July 12, 2004 |
| 4) | 87 Shoreline Drive, Stratford   | \$425,000 | July 23, 2004 |
| 5) | 48 Harbor View Place, Stratford | \$488,000 | June 15, 2004 |

The key to resolving the issue in this case is to analyze both appraisers' comparable sales as they relate to the determination of the subject's fair market value by the town's assessor.

Quiroga's sale one at 50 Harbor View Place had an adjusted sale price of \$516,500 despite its lower sale price of \$490,000. From an examination of defendant's Exhibit E, a photo of a condo, there is no similarity between the subject, a freestanding cottage located on the Sound, and 50 Harbor View Place, a modern attached condo in a five-building complex, overlooking the salt marshes of the Housatonic River. As Corner testified, this property attracts a different buyer from that of the subject.

Sale two at 89 Shoreline Drive is within the same condo association as the subject. The property is half the size of the subject at 996 square feet of building space. Although it is considered a six-room house, it has no partitions between the various rooms. With a net adjustment of 40.8% and a gross adjustment of 50.8%, Quiroga raised the adjusted sale price to \$422,500. With such a large adjustment and striking physical differences to the subject, this sale is not comparable to the subject. It was Quiroga's opinion that sale two had a superior location to the subject because it had direct frontage on the Sound. However, because sale two is located within the highwater mark of the Sound, it has seasonal limitations and cannot be expanded. Rather than being a superior

location, sale two's location is inferior to the subject's location.

Sale three at 1 Merwin Avenue is part of a garden complex where all units are located in one large building. Quiroga had a net adjustment for this sale of -0.7% and a gross adjustment of 13.2% for an adjusted sale price of \$521,500. A garden complex does not compare to a single, freestanding unit on the Sound.

Sale four at 87 Shoreline Drive is also located in the same condo association as the subject. However, this sale has a gross living area of 800 square feet and, unlike the subject, it does not have central air conditioning. In addition, the location of sale four on the beach means that the piles under it are under water at high tide. Quiroga made a gross adjustment of 29.1% for an adjusted sale price of \$505,500. Because of the location of sale four and its inferior square footage and condition compared to the subject, this sale is not a good comparable to the subject.

Sale five at 48 Harbor View Place is located in the same complex as Quiroga's sale one. As discussed above, a condo in a five-building complex overlooking marshes, has few similarities with a beachfront, freestanding property.

Quiroga's remarks titled "Comments on Sales Comparison" in his appraisal report highlight the problem with obtaining good comparable sales to the subject property:

"The subject is a detached 2 story condo built in 1923 and reportedly completely renovated in 2000. The subject is located in the Beach Drive Complex and offers deep panoramic Long Island Sound views. The subject offers a private beach maintained by the condo association which is located directly in front of the subject property. The subject is 1700+ sf and was found in good overall condition.

“Due to the completely renovated condition, open water views and limited number of similar transfers, your appraiser was forced to exceed guidelines and was forced to research sales and listings from all surrounding towns. . . .”

(See plaintiff’s Exhibit 1, addendum page 1.)

Corner, the town’s appraiser, relied on three comparable sales. In addition to his three comparable sales, Corner listed eleven Shoreline Drive townhouse sales in order to show a relationship between their assessments and square footage. Corner did not translate this relationship to fair market value.

Both Corner and Quiroga selected 87 Shoreline Drive in Stratford as a comparable property. However, where Quiroga reported an adjusted sale price of \$505,500, Corner had an adjusted sale price of \$535,500 for this property. With the assessor valuing the subject at \$586,000, it is difficult to understand Corner’s rationale in selecting 87 Shoreline Drive as a comparable when he testified that it was half the size of the subject, located in water at high tide and not suitable for further expansion as it is located within a public trust.

The remaining two comparables selected by Corner are 102 and 138 West Beach Drive in Stratford. However, the two West Beach Drive comparables are not condominiums like the subject; they are cooperatives located in a 26-unit complex. This complex sits on 7.3 acres of land upon which open space for parking and tennis courts is located. Corner considered the co-ops to be similar to condominiums, and therefore, viable comparable sales. He also noted in his appraisal report that the co-op complex is located in a superior location to the subject. See defendant’s Exhibit A.

Corner verified the so-called sales of the West Beach drive co-ops with the units owners. Unit #102 had a sale price of \$600,000, which Corner adjusted to \$610,286. Unit #138 had a sale price of \$725,000, which Corner adjusted to \$620,200. Corner's method of valuation of these two co-ops runs afoul of Sun Valley Camping Cooperative, Inc. v. Stafford, 94 Conn. App. 696, 709, 894 A.2d 349 (2006), holding that the co-operative, as a whole, should be valued and assessed, not the individual co-op units.

From the standpoint of selecting comparable sales as a valuation tool to determine the fair market value of the subject, it would be inappropriate to use the value of cooperative units to measure the fair market value of condominiums. Therefore, Corner's use of units #102 and #138 at West Beach Drive in Stratford should not be considered as viable comparable sales.

Of the three recognized appraisal methods to determine real estate values, market sales approach, cost approach and income approach, both Quiroga and Corner relied only on the market sales approach. Reviewing both appraisers' comparable sales, only the sales at 87 and 89 Shoreline Drive in Stratford provide the court with some insight into determining the fair market value of the subject property. However, even these two units, as previously noted, are not truly comparable to the subject.

As to Quiroga's comparable at 89 Shoreline Drive, requiring over 50% adjustment for the sale price, such an adjustment seriously weakens the credibility of the comparable. See *Appraisal of Real Estate* (12<sup>th</sup> Ed. 2001), pp. 446-47 discussing how the larger the adjustment by the appraiser, the less reliable the comparable is in determining the value

of real estate. In comparing 89 Shoreline Drive to the subject, clearly the differences, as noted by the court above, substantially outweigh the similarities.

Both appraisers selected the sale at 87 Shoreline Drive as a comparable, yet this sale, like the sale at 89 Shoreline Drive, has serious deficiencies when compared to the subject. The assessor's fair market valuation of the subject at \$586,000, as of October 1, 2004, is not unreasonable, especially when both appraisers valued 87 Shoreline Drive at over \$500,000 when that property is half the size of the subject, lacks central air conditioning and is underwater at high tides.

In contrast to 87 Shoreline Drive, the subject was recently renovated as a year-round beach home, is not located within the highwater mark of the Sound and has three bedrooms with two baths, for a total square footage of over 1,700 square feet. Clearly, the appraisers' valuation of 87 Shoreline Drive support the assessor's valuation of the subject at \$586,000.

In tax appeal cases, the taxpayer bears the burden to show that the assessor's valuation of his or her property is in error. See Ireland v. Wethersfield, 242 Conn. 550, 556-58, 698 A.2d 888 (1997). In this case, the plaintiff has failed to sustain that burden.

Accordingly, judgment may enter, in favor of the defendant town, denying the plaintiff's appeal, without costs to either party.

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Arnold W. Aronson  
Judge Trial Referee

