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## Tips on Projecting Connecticut Property Taxes

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January 29, 2020

# Tips on Projecting Connecticut Property Taxes

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1) Estimating Fair Market Value (FMV) of Real Property

   a. Five year revaluation cycle – C.G.S. § 12-62(b)(1)

   b. Base year concept

   c. Interim adjustments for new construction or demolition/ destruction



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# Tips on Projecting Connecticut Property Taxes

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d. Sale alone cannot cause interim adjustment – C.G.S. § 12-63d

e. Use of a sale - “chasing” a sale

f. Cost approach for new construction

g. Assessments of comparable properties may offer guidance



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## 2) Estimating Taxes

a. Study mill rate trends over time including changes upon revaluation

b. Incorporate revaluation cycle in modeling

c. Big drops in mill rate upon revaluation no longer the norm



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# Tips on Projecting Connecticut Property Taxes

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d. Easier to use effective tax rate (mill rate x 70% assessment ratio) applied to FMV

e. Do not forget to include any applicable special services district mill rate

f. Beware of simply incorporating current level of taxation in modeling



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3) Consider assessment fixing agreement for new construction – C.G.S. § 12-65b



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## The Sale of Real Estate During the Pendency of a Tax Appeal:

## Through the Lens of Buyers and Sellers

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January 29, 2020

# The Sale of Real Estate During the Pendency of a Tax Appeal

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- Relationship between value in a property tax appeal and purchase price in the sale of real estate.
  - Property tax appeal:
    - Fair market value
      - "Value that would be fixed in fair negotiations between a desirous buyer and a willing seller, neither under undue compulsion to make a deal."
    - What price would a market participant pay for the subject property as of a particular date?
      - Actual purchase price during pendency of appeal could impact value determination.
        - Timing of purchase—is it proximate to valuation date?


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# The Sale of Real Estate During the Pendency of a Tax Appeal

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- Potential Issues Between Purchase Price, Opinion of Value and Current Assessment
  - Seller's View:
    - Asking/potential purchase price exceeds opinion of value:
      - Buyer may be reluctant to meet asking price;
      - Municipality likely to use asking/potential purchase price to attack opinion of value in tax appeal.
        - Does asking/potential purchase price exceed current assessment?
    - Asking/potential purchase price is less than assessment:
      - Is it consistent with Seller's opinion of value in tax appeal?
        - Potentially strong evidence that property is overvalued/overassessed by the municipality.
  - Buyer's View:
    - Purchase price exceeds Seller's opinion of value/current assessment:
      - Impact on pending tax appeal;
      - Impact on future assessment
        - Potential increase in tax liability.


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# The Sale of Real Estate During the Pendency of a Tax Appeal

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- Obtaining An Appraisal
  - In connection with the tax appeal, impact on sale of property;
  - In connection with sale of property, impact on the tax appeal.

- Procedural Considerations for Tax Appeal
  - Seller's Rights
    - Potential tax savings;
    - Continue as a party-plaintiff;
  - Buyer's Rights
    - Join tax appeal as party-plaintiff;
    - Potential tax savings.


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# The Sale of Real Estate During the Pendency of a Tax Appeal

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- Various Factors For Pending Tax Appeal:
  - If Buyer joins as party-plaintiff:
    - Does Buyer retain independent counsel or same attorney as Seller in tax appeal?
    - Who has ultimate settlement authority?
      - How much time/money has Seller invested?
        - Court/filing fees;
        - Attorney fees;
        - Appraisal.
      - How many years remain under appeal?
        - CT = 5-year revaluation cycle;
    - If Buyer retains new counsel, who will be lead counsel at trial?


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# The Sale of Real Estate During the Pendency of a Tax Appeal

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- Various Factors for Pending Tax Appeal:
  - Tax Refund vs. Tax Credit
    - Tax credit directly benefits future owner of the subject property;
    - Tax credit (as oppose to a refund) is the form of relief in vast majority of settled tax appeals
  - Timing of relief to Seller
- Buyer and Seller should be Proactive vs. Reactive
  - Identify issues in P&S agreement, not at closing;
  - Allocation provision/agreement
- Buyer's Other Considerations:
  - Right to Seller's documents that are relevant to tax appeal;
  - Ensure Seller does not do anything to jeopardize appeal


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## The Tenant's vs. The Landlord's Tax Appeal

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January 29, 2020

# Some Preliminaries

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## Who has legal standing to take a tax appeal?

- Owner
- Tenant
- Mortgagee
- Receiver in bankruptcy or foreclosure



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# More Preliminaries

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- Review tax clause in lease.
- Assessment parcel
- Working for the landlord?
- How to manage appeal costs, legal fees, etc.
- Creation of separate parcel?


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# Property Manager

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- The I & E form
- Transaction details
  - TI repayment / amortization
  - The importance of capex budgets
  - Keeping track of code / environmental concerns
  - Tenant renewal intentions
  - Capital reserves
  - Keeping fingers on the pulse of future expenses


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## What Impact Do Legacy Leases Have on Ad Valorem Retail Value?

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January 29, 2020

# Legacy Retail Leases

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- Below market
- Above market
- Remaining term
- Original tenant?
- Sublease or assignment?

(need to analyze transaction)



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# Issues

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- Connecticut is a market value state – define?
- Date lease negotiated/options to renew/purchase
- First Bethel v. Town of Bethel – an important case
- “Consider existing leases at the property”


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# Dealing with the Assessor

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She/he likely:

- Will seek to embrace above market leases
- Will seek to reject below market leases
- Will not focus on store size – feasibility and cost (e.g. partitioning, utility splits; code compliance) of subdivision



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# Takeaways

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- Don’t assume an above market lease will sink the tax appeal
- Don’t assume a below market lease will guarantee a successful result in the tax appeal
- Analyze the lease to determine the impact of concessions, exclusive size, circumstances surrounding the transaction and construction/TI issues may have on value
- Be creative!


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