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SUPERIOR COURT

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DOCKET NO. HHB-CV- -6044354 . 1f
JUDICIAL DISTRICT OF
BRISTOL SPORTS CENTER
A DELAWARE STATUTORY TRUST

SUPERIOR COURT
JUDICIAL DISTRICT
OF NEW BRITAIN
ADMINISTRATIVE AND TAX
APPEALS

VS.

CITY OF BRISTOL OCTOBER 13, 2021

MEMORANDUM OF DECISION

INTRODUCTION:

This matter is a tax appeal contesting the assessment, as of the October 1, 2017 Grand List, of a property located at 383 Middle Street in Bristol. The plaintiff initially appealed the assessment to the Board of Assessment Appeals but was denied relief by the board in a notice dated March 12, 2018. The Plaintiff brings a two count complaint dated April 26, 2018 in this court asserting claims under General Statutes §§ 12-117a and 12-119 respectively. The court held a trial on October 6-7, 2021.

FINDINGS OF FACT:

Based upon the evidence introduced at trial, the court makes the following findings of fact:

1. The real property is located at 383 Middle Street in Bristol and consists of 36.90 acres in an IP-1 zone with four structures ¹ and three small security guardhouses ² (Property). Def.'s Ex. A, at 2.
2. The plaintiff is the owner of the Property, and was so on October 1, 2017.
3. The plaintiff purchased the Property in December of 2013 for \$42,175,000. Pl.'s Ex. 1; Def.'s Ex. A, at 19.
4. The plaintiff is a part of a Real Estate Investment Trust, and purchased the Property as an investment. Def.'s Expert Trial Test.
5. ESPN has occupied the Property, at least in part, since 2005. Def.'s Expert Trial Test.
6. The four structures, not including the three small security guardhouses, have 410,699 square feet of total building area. Def.'s Ex. A, at 2.

¹ The main building, originally constructed in 1961, serves as an office building and comprises 330,400 square feet of building area. A warehouse building constructed in 1974 comprises 71,712 square feet of building area and is connected to the main building. There are also a 6000 square foot garage and a 2,587 square foot building that houses a bank branch facility. Def.'s Ex. A, at 2.

² These three guardhouses were constructed after the valuation date at issue here.

7. The main building and the warehouse building comprise office space, warehouse space, cafeteria, gym, and a data center. Def.'s Ex. A, at 2.
8. The Property is located in the southeast section of Bristol on the northeast corner of Middle Street and Redstone Hill Road. \
9. As of October 1, 2017, the Property was 100 percent leased to two primary tenants, with 407,465 square feet leased to ESPN through December 31, 2022³, and 2,709 square feet leased to a credit union through January 31, 2024.⁴ The leases are triple net leases requiring the tenants to bear essentially all of the operating costs of the Property. Def.'s Ex. A, at 2, 19.
10. The City of Bristol (Bristol) assessed the full value- of the Property at \$36,064,500 as of October 1, 2017 .(Valuation Date), and then applied an assessment of seventy percent (70%) of the foregoing full value.
11. The plaintiff's expert, Sean Hagearty, determined that the value of the Property as of October 1, 2017 was \$31,000,000. Pl.'s Ex. 2.

³ ESPN has options to extend the lease. " -

⁴ The lease to the credit union was actually extended to 2024 after the Valuation Date. There is also a lease for a cell phone tower.

12. Bristol's expert, Christopher Kerin, determined that the value of the Property as of October 1, 2017 was \$38,000,000. Def.'s Ex. A, at 3.
13. The lease with ESPN is an arm's length lease which reflects market conditions for the Property. Def.'s Expert Trial Test.
14. The Property is in good condition and there is no material deferred maintenance. Def.'s Ex. A, at 37. Improvements and updates have been made to the Property over time.
15. The income approach is the most appropriate valuation method for this Property and produces a valuation that most accurately reflects the actual value of the Property.
16. The Property is currently being used in its highest and best use.
17. The income approach, as analyzed by the defendant's expert, most accurately reflected the actual value of the Property. The net operating income achievable from the Property was \$2,706,032 and the appropriate capitalization rate was 7.25 percent, yielding a valuation of \$37,324,576, rounded to \$37,320,000. Def.'s Ex. A, at 63. ⁵
18. The market for the Property has not materially changed between the December 2013 purchase by the plaintiff and the Valuation Date. Def.'s Expert Trial Test.

⁵ The appropriate comparable sales valuation method, as analyzed by the defendant's expert, yielded a higher valuation, however the court found that the income valuation method as analyzed by the defendant's expert produced the most accurate valuation of the Property. The cost approach is not an appropriate valuation method in this case.

19. The court credited, and found most convincing, the testimony and analysis of the defendant's expert. -

20. The court did not find convincing the testimony and analysis of the plaintiff's expert.

STANDARD OF REVIEW:

A trial court hears tax appeals pursuant to §§ 12-117a and 12-119 de novo, and, if the taxpayer is aggrieved, must arrive at its own conclusions as to the value of the property at issue by evaluating all of the evidence, including the opinions of appraisers. The court is to apply its general knowledge and experience in evaluating all of the evidence presented. See *Davis v. Westport*, 61 Conn. App. 834, 840, 767 A. 2d 1237 (2001).

The trial court must first determine whether the taxpayer is aggrieved by the assessment, specifically whether or not the assessment is excessive. A finding of aggrievement concerns both issues of fact and of law. An affirmative finding of aggrievement is a condition precedent to engaging the court's broad discretionary power to grant appropriate relief. In exercising its discretion, the court should correct the valuation if it is found to be excessive. Whether the property has been overvalued is a question of fact. It is the taxpayer's burden to show that the valuation is excessive, and the trial court must determine whether the taxpayer has offered sufficient, credible evidence that the subject property has been overvalued. When making a claim pursuant to § 12-119, the plaintiff must prove more than mere overassessment as in § 12-117a, proving instead that the assessment was manifestly excessive and could not have been arrived at

except by disregarding the provisions of the statutes applicable to determining the valuation of such property.

ANALYSIS:

The complaint contains two counts. Count one brings a claim pursuant to § 12-117a and asserts that the October 1, 2017 valuation of the Property exceeded the Property's true and actual market value and was instead grossly excessive, disproportionate and unlawful. Count two bring a claim pursuant to § 12-119 and asserts that the October 1, 2017 valuation of the Property was manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of the Property.

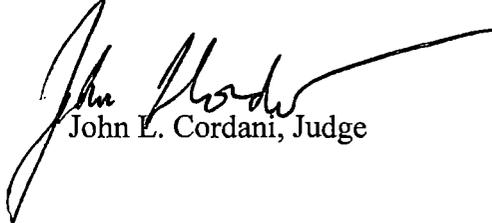
The court finds that the plaintiff has failed to prove that it is aggrieved. The court found that the proper valuation of the Property as of October 1, 2017 was \$37,320,000, which exceeds the applicable assessed value of \$36,064,500. In reaching its valuation, the court specifically credited, and found most persuasive, the defendant's expert income valuation of the Property.

The court also found significant that the current owner of the property, a sophisticated real estate investment trust entity, paid \$42,175,000 for the Property in December 2013, and that the market for the Property had not materially changed between the plaintiff's purchase and the Valuation Date. The court therefore finds that the plaintiff has failed to prove that the defendant's October

1, 2017 valuation of the Property at \$36,064,500 was excessive. ⁶ Accordingly, the plaintiff is not aggrieved, and has failed to prove either of its claims. The court therefore will respectfully enter judgment for the defendant on both counts.

JUDGMENT:

Judgment enters for the defendant on count one and on count two.



John L. Cordani, Judge

⁶ As noted the court found that the Property was actually more valuable than the defendant's applicable assessed full value. This determination means that the defendant's assessed full value of \$36,064,500 as of October 1, 2017 stands.