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SUPERIOR COURT

DOCKET NO. HHB-CV-19-6054200 : . . ; SUPERIOR COURT  
2022 JUN 21 P 5:58

JOHN J. FULLER : JUDICIAL DISTRICT  
JUDICIAL DISTRICT OF NEW BRITAIN  
VS. NEW BRITAIN ADMINISTRATIVE AND TAX  
APPEALS

TOWN OF OLD SAYBROOK, ET AL

JUNE 21, 2022

MEMORANDUM OF DECISION

INTRODUCTION:

This matter is a real property tax appeal brought by John J. Fuller (plaintiff) concerning the valuation and taxation of real property located at 42 Watrous Point Road in Old Saybrook by the Town of Old Saybrook and the Old Saybrook Board of Assessment Appeals (collectively, defendants). The plaintiff has brought a single count complaint asserting a claim pursuant to General Statute § 12-117a. The court held a trial on May 27, 2022.

FINDING OF FACT:

Based upon the evidence introduced at trial, the court has made the following factual findings:

1. The Property at issue is located at 42 Watrous Point Road in Old Saybrook and is designated by Map/Block/Lot: 064/010/0001 (Property).

*fk*                      *n*                      *-TJ* *counsel of record*  
*-h* *fft u;./*                      *A. Jordanopoulos, Tax Session*

2. The Property comprises 4.97 acres on the Connecticut River near Long Island Sound in Old Saybrook as well as a 7,866 square foot residence which has been well maintained and in good condition. The Property also has an in ground pool, a detached garage, a pool house, and a dock on the Connecticut River with a boat lift.
3. The Property was purchased by the plaintiff in 2011 for \$5 million.
4. At all times relevant to this appeal, the plaintiff was the owner of the Property and was responsible for paying taxes assessed on the Property.
5. As of October 1, 2018 (Valuation Date), the defendants valued the Property at \$5,174,300 and assessed taxes based upon seventy percent of the foregoing valuation using the applicable mil rate.
6. The plaintiff appealed the valuation and assessment to the board of assessment appeals, but the board declined to change the valuation or the assessment.
7. The plaintiff appealed the board's decision to this court pursuant to § 12-117a.
8. The plaintiff's expert, Robert Champagne, evaluated the Property, determined its value by the sales comparison approach to be \$4,030,000, determined its value by the cost approach to be \$4,302,613, and ultimately concluded that the value of the Property was \$4,030,000, all of the foregoing as of the Valuation Date.
9. The defendants' expert, Michael Fazio, evaluated the Property and determined the value of the Property to be \$5 million as of the Valuation Date using the sales comparison approach.

10. The plaintiff's purchase of the Property in 2011 for \$5 million was exposed to the market for an extended period of time, negotiated at arms-length, and established a fair market price for the Property at that time. <sup>1</sup>
11. The market, in the relevant area of the Property, for high end residential property with values in excess of \$1 million was stable or slightly increased from 2011 to 2018. <sup>2</sup>
12. Many of the comparative sales used by the plaintiff's expert were not of the same class of property as the subject Property.
13. The plaintiff's expert developed a cost approach valuation that substantially exceeded his appraised value, but he did not use the cost approach value in determining his appraised value, but instead merely adopted his sales comparison value as his appraised value.
14. The adjustment rates for acreage and living area<sup>3</sup> used by the plaintiff's expert were too small.

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<sup>1</sup> The Property had been marketed for more than a year before the plaintiff purchased it. The plaintiff had viewed the property multiple times during the marketing period. The initial asking price for the Property was \$7.9 million, but it sold in 2011 for \$5 million. The court did not believe that the plaintiff overpaid for the Property.

<sup>2</sup> This finding was supported by the testimony of the defendant's expert. The report of the plaintiff's expert indicates that the market was stable in the 12 months before the Valuation Date and that it was stable or declined in the 36 months prior to the Valuation Date.

<sup>3</sup> The cost approach by the plaintiff's expert yielded a cost of \$345 per square foot of main living area. The defendant's expert adjusted at the rate of \$100,000 per acre for acreage and \$200 per square foot for living area. The plaintiff's expert adjusted at \$50,000 per acre for acreage and \$100 per square foot for living area. The court found the defendant's expert's adjustments in this regard to be more accurate.

15. The defendants' expert analysis and appraisal were more convincing and more accurate.

The defendants' expert used sales comparisons that were more within the class of the subject Property even though relatively large adjustments needed to be made.

16. The court credited the testimony and analysis of the defendants' expert.

17. The full market value of the Property as of the Valuation Date was \$5 million.

**STANDARD OF REVIEW:**

A trial court hears tax appeals pursuant to §§ 12-117a and 12-119 de nova, 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 clai

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.

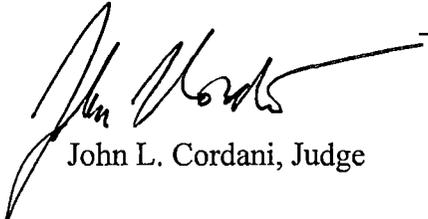
**ANALYSIS:**

The effective complaint is dated May 30, 2019 and asserts a single claim pursuant to § 12-117a alleging that the valuation and taxation of the Property by the defendants on the October 1, 2018 grand list was grossly excessive, disproportionate and unlawful. The plaintiff is aggrieved because the assessed full market value as of the Valuation Date was \$5,174,300, but at trial both the plaintiff's and the defendants' experts concluded that the value of the Property as of the Valuation Date was less than the foregoing amount, and the court has concluded that the true fair market valuation of the Property as of the Valuation Date was less than the foregoing amount.

Upon consideration of all of the evidence introduced at trial, the court accepts the defendants' expert's appraisal and determines that the full market value of the Property as of the Valuation Date was \$5 million.

**JUDGMENT:**

Judgment enters for the plaintiff on the single count of the complaint. The full fair market valuation of the Property as of October 1, 2018 was \$5 million. Taxes should be assessed on the Property based upon seventy percent of the foregoing full market valuation and the applicable mil rate. The court will consider an award of costs if the plaintiff submits an appropriate and reasonable request. The court declines to award interest.



John L. Cordani, Judge