

OFFICE OF THE CLERK
SUPERIOR COURT

DOCKET NO. HK-CV-16-03 ; S⁵
PUTNAM TRUST COMPANY
THE BANK OF NEW YORK MELLON

SUPERIOR COURT

JUDICIAL DISTRICT
OF NEW BRITAIN
ADMINISTRATIVE AND TAX
APPEALS

PUTNAM TRUST COMPANY
THE BANK OF NEW YORK MELLON

VS.

TOWN OF GREENWICH JANUARY 3, 2022

MEMORANDUM OF DECISION

INTRODUCTION:

This matter is a property tax assessment appeal brought pursuant to General Statutes § 12-117a concerning two properties located in the Town of Greenwich (Greenwich). The plaintiffs have brought a two count complaint dated June 10, 2016 challenging the tax assessment of each of the two properties as of October 1, 2015 pursuant to General Statutes § 12-117a, with a single count directed to each of the two properties at issue. A trial to the court was held on November 22, 2021.

*Notice sent to all counsel of record + official reporter
A. Jordanopoulos, 1-3-22*

FINDINGS OF FACT:

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

1. On October 1, 2015, and on all dates relevant to the issues in this action, Putnam Trust Company (Putnam) and The Bank of New York Mellon (Bank of New York) were the owner and tenant respectively of two properties located in Greenwich, namely the properties located at 10 Mason Street (10 Mason Street) and 43 Mason Street (43 Mason Street).¹
2. On October 1, 2015 (Assessment Date), Greenwich determined that the fair market value of 10 Mason Street was \$22,195,600, and that the fair market value of 43 Mason Street was \$5,792,600. Greenwich assessed taxes based upon 70 percent of the foregoing amounts.²
3. The plaintiffs timely appealed Greenwich's tax assessment to the Board of Assessment Appeals (the "board"), but in decisions dated May 3, 2016, the board denied the plaintiff s appeals and refused to alter the tax assessments.

¹ Collectively, Putnam and the Bank of New York are referred to as the "plaintiffs". Collectively, 10 Mason Street and 43 Mason Street are referred to as the "properties".

² As of October 1, 2017, and for the grand lists through October 1, 2020, Greenwich reduced the full valuation of 10 Mason Street from \$22,195,600 to \$21,713,500 because of a demolition of the banking drive through lanes.

4. On or about June 21, 2016, the plaintiffs appealed the board's denials to this court.
5. The plaintiffs' expert, Christopher Buckley determined that, as of the Assessment Date, the fair market value of 10 Mason Street was \$17,400,000 and the fair market value of 43 Mason Street was \$5,775,000.
6. Greenwich's expert, Arnold Grant, determined that, as of the Assessment Date, the fair market value of 10 Mason Street was \$24,630,000 and the fair market value of 10 Mason Street was \$6,060,000.
7. Both properties are located in the heart of the central business district of Greenwich. See Defendant's Exhibit A, page 1. The location is attractive for private banking and finance related office use. See Defendant's Exhibit A, p. 10.
8. 10 Mason Street comprises 1.4477 acres of land, a four-story building with approximately 30,574 square feet of rentable area, and a paved parking area. See Defendant's Exhibit A, p. 1.
9. 43 Mason Street comprises approximately 30,295 square feet of land that is used as a parking lot which primarily services 10 Mason Street.³ See Defendant's Exhibit A, p. 1.
10. There have been no arm's length sales of either of the properties within the three years preceding the Assessment Date. See Defendant's Exhibit A, p. 6.

³ 43 Mason Street also comprises a small storage building.

11. 10 Mason Street is being used by its owner⁴ as offices for private banking and financial services. See Defendant's Exhibit A, p. 21.
12. The quality and condition of the building on 10 Mason Street is good. See Defendant's Exhibit A, pp. 21, 23-25.
13. During the period from 2013 to 2015, approximately \$1,350,000 was spent on improvements to 10 Mason Street. See Defendant's Exhibit A, p. 22.
14. The properties are currently being used in their highest and best use. See Defendant's Exhibit A, p. 27.
15. As of the Assessment Date, the full service⁵ market rate (excluding electricity) for leased space at 10 Mason Street is \$68 per square foot for above grade space and \$51 per square foot for lower level space,⁶ yielding a base rent of \$1,985,124 per year plus an electricity use reimbursement of \$3.50 per square foot. With a 7.5 percent vacancy allowance,⁷ the

⁴ Putnam is owned by Bank of New York.

⁵ As testified by Mr. Grant, full service leases are typical in the Greenwich market.

⁶ The court credited and adopted Mr. Grant's analysis of the applicable market rent.

⁷ The court found that Mr. Grant's vacancy allowance at 2.5 percent was too low. It inappropriately depended upon an assumption that the building would continue to be owner occupied for all relevant periods. In performing a theoretical income valuation, however, the assumption of continued owner full occupancy is inappropriate. The analysis instead depends upon a theoretical purchaser of the property expecting and valuing an income stream from the property. Accordingly, the assumptions employed should not necessarily be tied to the current ownership

effective annual income would be \$1,935,136. See generally Defendant's Exhibit A, pp. 30-34, adjusted for a 7.5 percent vacancy rate.

16. Operating expenses for 10 Mason Street as of the Assessment date would be \$432,384.⁸

See Defendant's Exhibit A, p. 33.

17. The net operating income derivable from the ownership and leasing of 10 Mason Street as of the Assessment Date would be \$1,502,752.

18. The appropriate loaded capitalization rate was 6.96 percent as of the Assessment Date.⁹

19. The income approach yields a value of \$21,591,264 for 10 Mason Street as of the Assessment Date.

20. The comparable sales approach employed by Mr. Grant was credited by the court, thereby yielding an overall value of \$25,110,000 for 10 Mason Street as of the Assessment Date.¹⁰

situation. The standard vacancy and vacancy allowance in this Greenwich market is higher than 2.5 percent. The court adopted Mr. Buckley's assessment of this factor at 7.5 percent. ,

⁸ Mr. Buckley's projected operating expenses are not very different at \$462,582.

⁹ The court adopted a loaded capitalization rate that was the average between Mr. Grant's 6.8330 percent and Mr. Buckley's 7.08 percent ,

¹⁰ The court found that Mr. Grant's comparable sales, and the analysis thereof, was most compelling. The two expert's comparable sales analysis shared only one comparable sale. The court notes that the very large percentage adjustments used by Mr. Buckley in adjusting his chosen comparable sales undercut his analysis and led the court to find that his comparable sales and analysis were not convincing. Very large adjustments are an indication that the chosen sales are not reasonably comparable, and large adjustments, such as those employed by Mr. Buckley, provide room for subjective distortion of the analysis. Several of Mr. Buckley's sales were located further away from the

21. An averaging of the value achieved by the income approach with the value achieved by the comparable sales approach yielded a final value of \$23,350,632 for 10 Mason Street as of the Assessment Date.
22. For 43 Mason Street, the comparable sales approaches by both experts were credited by the court, thereby yielding an average value of \$5,907,500 for 43 Mason Street.
23. In view the values found by the court for both properties, the court finds that the assessments by Greenwich as of the Assessment date were not excessive and that the plaintiffs are not aggrieved.

STANDARD OF REVIEW:

A trial court hears tax appeals pursuant to General Statutes § 12-117a 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).

heart of the central Greenwich business district, where the properties in question are located, and were not the best comparable sales. The location of 10 Mason Street and 43 Mason Street within the heart of the central downtown Greenwich business district is a most important factor in their value. Further, the court accepted Mr. Grant's determination that 10 Mason Street was a class A building. Lastly, Mr. Buckley used comparison buildings that were much larger than 10 Mason Street, again making proper comparisons more difficult.

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.

ANALYSIS:

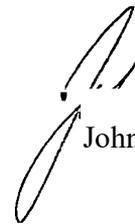
The complaint contains two counts. Count one brings a claim pursuant to General Statutes § 12-117a and asserts that Greenwich's October 1, 2015 valuation of 10 Mason Street exceeded the true and actual market value and was instead grossly excessive, disproportionate and unlawful. Count two brings a claim pursuant to General Statutes § 12-117a and asserts that Greenwich's October 1, 2015 valuation of 43 Mason Street exceeded the true and actual market value and was instead grossly excessive, disproportionate and unlawful.

The court finds that the plaintiff has failed to prove that it is aggrieved. The court found that the proper full valuation of 10 Mason Street as of October 1, 2015 was \$23,350,632, which

exceeds the applicable assessed full value of \$22,195,600. ¹¹ The court found that the proper full valuation of 43 Mason Street as of October 1, 2015 was \$5,907,500, which exceeds the applicable assessed full value of \$5,792,600. ¹² The court therefore finds that the plaintiff has failed to prove that the defendant's October 1, 2015 valuations of the properties were excessive. ¹³ 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 both counts.



John L. Cordani, Judge

¹¹ As noted, the full assessed value of 10 Mason Street as of October 1, 2017 through October 1, 2020 was reduced to \$21,713,500.

¹² In view of the plaintiff's expert valuation of 43 Mason Street at \$5,775,000, the plaintiff abandoned its challenge of the valuation of 43 Mason Street.

¹³ As noted the court found that the properties were actually more valuable than the defendant's applicable assessed full value. This determination means that the defendant's assessed full value stands.