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ASSESSING CONDOMINIUMS FOR PROPERTY TAXES

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You wanted to know how towns must assess condominiums when they do not receive a service (e.g., trash pick up) the town provides to other residential properties. You also wanted to know if other states require towns to assess condominiums differently in this circumstance.

SUMMARY

With few exceptions, towns must assess all properties based on their fair market value, which reflects many factors including the level and quality of municipal services. A condominium that does not receive a municipal service might sell for less than a comparable one that does, all other things being equal. Its owners can appeal to the town's board of assessment appeals if they believe the assessment does not accurately reflect this fact.

We could find no state that requires assessors to assess condominiums differently if they do not receive a municipal service.

State and federal courts have rejected claims that Connecticut towns must reduce the assessment for properties that do not receive all municipal services. While towns cannot assess condominiums differently than other properties, a few compensate them for comparable services procured from private vendors. New Jersey appears to be the only state

that requires towns to provide services to condominiums or reimburse them for the cost. Maryland explicitly allows towns to enter into agreements under which they can provide

condominiums with residential street service.

ASSESSING CONDOMINIUMS

Statutes

The statutes require towns to determine a property's fair market value (CGS § 12-63 (a)) and tax it at 70% of that value (CGS § 12-62a (a)). It does not allow towns to assess and tax condominiums differently, regardless of number and type of municipal services they receive.

(The only exception to the fair market standard applies to properties participating in the state's land conservation program. Towns must determine their value based on their current use without regard to the price they could command if they were offer for sale on the open market. They must tax these properties at 70% of that value.)

The International Association of Assessing Officers knows of no state that requires municipalities to assess condominiums in a way that compensates them for municipal services they did not receive. A computer search of law journals and all state statutes found no example of a state requiring municipalities to reduce the assessment on condominiums that do not receive a municipal service.

Case Law

Connecticut and federal courts have rejected claims that Connecticut towns had to reduce the assessment on properties to reflect the value of services they did not receive. The Connecticut Supreme Court held "Absence of special benefit does not prevent taxation for public purposes authorized by law" (*Moore et al v. Town of Stamford et al*, 134 Conn. 65 (1947)). The case arose because residents of the City of Stamford objected to paying taxes to the Town of Stamford for services they did not receive. (At the time, the city and town consolidated were not consolidated.)

The Appellate Court cited this case in 1996 when it overturned a trial court decision requiring Beacon Falls to reduce the tax assessment on condominiums where the town did not collect garbage (*Beacon Hill Condo. Assoc. v. Beacon Falls*, 41 Conn. App. 249 (1996)). Courts can require towns to reduce the assessment only if it "was unjust, not merely because the plaintiffs did not benefit from public services."

The federal appellate court agreed with the trial court that Naugatuck did not violate the U.S. Constitution's equal protection guarantees because it did not provide municipal services to condominiums (*Brook Valley Estates Condominium Ass'n v. Town of Naugatuck*, 22 F.3d 1092 (2d Cir. 1994).

COMPENSATING CONDOMINIUMS FOR SERVICES THEY PROVIDE

Connecticut law does not require towns to provide condominiums the same municipal services provided to other residential properties. Nor does it require towns to reimburse condominiums for the cost of procuring those services from private vendors. But 11 towns compensated condominiums for trash pick up or hydrant maintenance, according to a 1991 survey done by the Connecticut Chapter of the Communities Associations Institute.

Attachment 1 shows the survey results, which identify the services towns provide to condominiums. We contacted six of the towns that did not collect garbage or maintain fire hydrants at condominiums, but reimbursed them for the cost of procuring these services

from private vendors. Branford, Milford, and Stamford provide rebates to condominiums for garbage collection based on the town's cost per unit of providing this service to other residential properties. Norwalk reduces the mill rate for condominiums to reflect their costs. Newington reimburses associations for garbage collection. South Windsor now collects garbage at condominiums.

New Jersey's 1990 Municipal Services Act requires towns to provide specified services to condominiums and cooperatives or reimburse them for the cost (NJSA 40:67-23.2). Maryland allows towns to contract with condominiums to provide residential street service or reimburse them for the cost the town would incur if it provided the service (MD Code 1957, Art 23A, § 50).

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