

# **Bond Case Briefs**

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## **TAX - VIRGINIA**

### **Portsmouth 2175 Elmhurst, LLC v. City of Portsmouth**

**Supreme Court of Virginia - January 23, 2020 - S.E.2d - 2020 WL 370544**

Taxpayer brought action against city, challenging real estate tax assessments for a former meat packing plant in city, and alleging that attorney fees charged to taxpayer to collect assessments were not reasonable.

The Circuit Court upheld assessments. Taxpayer appealed.

The Supreme Court held that:

- Taxpayer presented a prima facie case that real property was valued in excess of fair market value;
- Taxpayer failed to prove that mass appraisal or subsequent revised assessment failed to conform to professional standards;
- Taxpayer failed to prove that under applicable Virginia law the distinctive characteristics of property rendered a falsified result under mass appraisal that deviated significantly from fair market value;
- Trial court was well within its discretion in concluding that attorney fees were reasonable.

Taxpayer presented a prima facie case that real property, a former meat packing facility, was valued in excess of fair market value in determining whether mass appraisal for real estate tax assessment conformed to generally accepted appraisal practices, procedures, rules, and standards or applicable Virginia law relating to valuation of property; taxpayer offered testimony of highly qualified expert to that effect, an exhaustive report, and evidence that property had sold recently on two occasions, each time well below city's assessed value, and taxpayer showed that the most recent purchaser demolished building on property providing compelling evidence that building had outlived its useful life and was, consequently, overvalued in city's assessment.

Taxpayer failed to prove that mass appraisal or subsequent revised assessment failed to conform to professional standards in taxpayer's action challenging city's tax assessments on real property, a former meat packing facility, absent specific testimony explaining how standards were, in fact, violated by mass appraisal and lowered subsequent assessment; taxpayer's expert's written report faulted assessment for failing to comply with professional standards, whereas city's expert testified that his assessment did comply with mass appraisal standards, and trial court carefully weighed this contrasting testimony and found in favor of city.

Taxpayer failed to prove that under applicable Virginia law the distinctive characteristics of real property, a former meat packing facility, rendered a falsified result under mass appraisal that deviated significantly from fair market value, as would support finding that in challenging city's real estate tax assessment taxpayer failed to establish that mass appraisal and subsequently lowered assessment did not conform to generally accepted appraisal practices, procedures, rules, and standards or applicable Virginia law relating to valuation of property.

Trial court was well within its discretion in concluding that contingency fee based attorney fees of

\$24,000 were reasonable for recovery of delinquent real estate taxes, even though counsel did not meticulously document expenditure of time to the same extent as under an hourly fee arrangement; contingency fee was standard for recovery of delinquent taxes, fees did not exceed statutory cap of 20 percent, court reduced fees to well below cap, and trial court carefully considered the evidence.