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TAX - CONNECTICUT

7 Germantown Road, LLC v. City of Danbury

Supreme Court of Connecticut - January 28, 2025 - A.3d - 2025 WL 309848

Seven taxpayers filed six separate tax appeals from city's board of assessment appeals, challenging assessment of their respective real properties' values at over $1,000,000 each.

After trial court granted each taxpayer's motion to extend time for filing independent appraisal but taxpayers failed to file appraisals by extended deadlines, city moved to dismiss each case for lack of statutory standing.

The Superior Court granted city's motions to dismiss in five of the six cases, but denied motion in sixth case on basis that motion to dismiss referred to incorrect plaintiff. City filed corrected motion to dismiss sixth case. Taxpayers in five dismissed actions filed appraisals and moved to open judgments of dismissal and for reargument. The Superior Court granted taxpayers' motions and denied city's corrected motion to dismiss. City applied for certifications to file public interest appeal, and applications were granted.

The Supreme Court held that:

- Taxpayers' filing of replacement actions did not moot city's appeal from orders reopening judgments of dismissal;
- Taxpayers' failure to file appraisals with court within statutory deadline did not divest taxpayers of statutory standing to bring tax appeals; and
- Taxpayers' failure to file appraisals with court within statutory deadline did not divest court of subject matter jurisdiction.

Taxpayers' filing of six replacement actions in superior court challenging city's tax assessments of their real properties, after superior court, in each taxpayer's previously-filed tax appeal, had granted city's motion to dismiss for lack of statutory standing due to taxpayers' failure to file independent appraisals with court but had already granted each taxpayer's motion to reopen judgment of dismissal, did not moot city's appeal from grant of each motion to reopen; resolution of city's appeal could result in practical relief to city, given that each taxpayer's first-filed tax appeal was again pending, and statute that taxpayers invoked as basis to file replacement appeals did not reflect legislative intent to permit two simultaneous tax appeals with respect to a single assessment.

Nothing in the language of the statutory amendment allowing the filing of replacement tax appeals by certain taxpayers whose tax appeals were "dismissed" due to a failure to file an independent appraisal with the superior court suggests that the legislature intended to abrogate or modify the common-law "prior pending action" doctrine and permit a party that had a pending tax appeal in the superior court to file a second tax appeal in the superior court, resulting in concurrent litigation with respect to the same exact tax assessment.

Statute requiring taxpayer, in tax appeal concerning real property assessed at $1,000,000 or more, to file independent appraisal with superior court "not later than one hundred twenty days after"

commencing tax appeal did not implicate statutory standing, and thus, taxpayer's failure to timely file appraisal did not deprive taxpayer of statutory standing to pursue tax appeal, as would have deprived court of subject matter jurisdiction over tax appeal; deadline provision of statute did not say anything about who may set judicial machinery in motion, as opposed to preceding provision of tax-appeal statute, which gave statutory standing to tax payer as "[a] person…claiming to be aggrieved by the action of the board of tax review or the board of assessment appeals."

Under statute providing that taxpayer, in tax appeal concerning real property assessed at $1,000,000 or more, "shall file" independent appraisal with superior court "not later than one hundred twenty days after" commencing such tax appeal, that "court may extend the one-hundre--twenty-day period for good cause," and that if "appraisal is not timely filed, the court may dismiss the application" did not divest superior court of subject matter jurisdiction over taxpayer's tax appeal after taxpayer failed to file appraisal with court within extended deadline; filing of appraisal was not condition precedent to commencement of tax appeal, and statute used permissive "may" to address extending appraisal deadline or dismissing appeal, indicating deadline was flexible and non-jurisdictional.

The deadline for a taxpayer to file an appraisal with the superior court, under the statute providing that a taxpayer in a tax appeal concerning real property assessed at $1,000,000 or more "shall file" an independent appraisal with the court "not later than one hundred twenty days after" commencing such an appeal, that the "court may extend the one-hundred-twenty-day period for good cause," and that if the "appraisal is not timely filed, the court may dismiss" the appeal, is not a subject-matte--jurisdictional requirement.

Under the statute providing that a taxpayer in a tax appeal concerning real property assessed at $1,000,000 or more "shall file" an independent appraisal with the court "not later than one hundred twenty days after" commencing such an appeal, that the "court may extend the one-hundred-twen-y-day period for good cause," and that if the "appraisal is not timely filed, the court may dismiss" the appeal, the court has discretion to extend the deadline for filing the appraisal, provided there is good cause after the filing deadline has lapsed.

The statutory requirement for a taxpayer in a tax appeal concerning real property assessed at $1,000,000 or more to file an independent appraisal with the superior court "not later than one hundred twenty days after" commencing such an appeal, subject to extension by the court for good cause, is not a condition precedent to the commencement of a tax appeal, but rather, is a mandatory requirement that arises after the commencement of a tax appeal.

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