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Chestnut Point Realty, LLC v. Town of East Windsor

Appellate Court of Connecticut - July 21, 2015 - A.3d - 2015 WL 4221518

Chestnut Point Realty, LLC is the owner of real property in the Town of East Windsor. The town assessor valued the property at \$1,829,330. Chestnut appealed from the assessment to the Board of Assessment Appeals and appeared at a hearing to request a reduction in the assessment. On April 29, 2013, the board denied Chestnut's request. On May 1, 2013, the assessor mailed notice of the board's decision to Chestnut.

On June 28, 2013, Chestnut filed an application in the Superior Court that was titled "Complaint," bore a return date of July 23, 2013, and was accompanied by a citation and recognizance. On July 10, 2013, a marshal served the application, citation, and recognizance on the Town and, on July 17, 2013, filed the return of service in court. On August 14, 2013, the town filed a motion to dismiss the appeal on the ground that the court lacked subject matter jurisdiction because Chestnut had failed to serve the appeal within two months from the date notice of the board's decision was mailed. The parties appeared before the court to argue the Town's motion to dismiss. The court issued a memorandum of decision on April 14, 2014, in which it granted the motion, thus dismissing Chestnut's tax appeal.

The court found that Chestnut had filed a citation and complaint in the Superior Court in the judicial district of Hartford on June 28, 2013, but did not serve the town with the citation and complaint until July 10, 2013, which was beyond the two month period, commencing May 1, 2013, to take an appeal as required by § 12-117a. The issue decided by the court was whether "the act of filing an application and citation with the court effects an appeal from the [board] pursuant to § 12-117a." The court concluded that filing an application and citation in court does not commence a tax appeal.

Chestnut appealed and the Appellate Court affirmed.