

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - CONNECTICUT

Wheelabrator Bridgeport, L.P. v. City of Bridgeport

Supreme Court of Connecticut - February 2, 2016 - A.3d - 2016 WL 347925

Taxpayers, which were a waste-to-energy (WTE) facility and its owner trustees, appealed assessor's valuation as to their real and personal property on the Grand Lists. Appeals were consolidated. The Superior Court dismissed in part, and entered judgment. Taxpayers appealed, and city cross-appealed.

The Supreme Court of Connecticut held that:

- Trial court's improper rejection as a matter of law of the cash flow approach required a new trial;
- Trial court was required to determine whether the appraisals by experts included the value of personal property;
Evidence that the city engaged in wrongdoing was admissible;
- Any failure by taxpayer to provide a copy of an appraisal would not deprive the trial court of jurisdiction;
- An otherwise qualified expert is not disqualified merely because of a lack of a Connecticut real estate appraiser's license; and
- Trial court did not abuse its discretion when it deducted developer's profit of 15% from its reproduction cost approach calculations.

Trial court's improper rejection as a matter of law of the cash flow approach to valuation of property of taxpayers, which were a waste-to-energy (WTE) facility and its owner trustees, required a new trial at which the court could exercise its discretion to determine the credibility of expert testimony regarding the appropriate valuation method and expert's calculations, where court strongly suggested that it believed there were problems with the approach itself, implied that approach was inherently improper for tax assessment of a property that had no rental market, noted with approval another court's disparagement of the approach, and never explained why it found not credible the expert testimony from both sides that the approach was best.

Evidence that the city engaged in wrongdoing was admissible in appeal from valuation as to real and personal property of taxpayers, which were a waste-to-energy (WTE) facility and its owner trustees, for the purpose of determining whether taxpayers were entitled to interest on overpayments to the city.

Any failure by taxpayer, through refusing to provide a copy of an appraisal, would go, at most, to the merits of the trial court's decision sustaining taxpayers's appeal, and would not deprive the trial court of jurisdiction to hear the appeal.

A person who otherwise would be qualified as an expert witness to testify regarding the value of real property is not disqualified merely because the person is not a licensed real estate appraiser in Connecticut. In contrast to the evidentiary and procedural rules governing expert testimony, the purpose of the statutory scheme governing the licensure of real estate appraisers is to protect members of the general public.

Trial court did not abuse its discretion when it deducted developer's profit of 15% from its reproduction cost approach calculations when reviewing city's assessment of property of taxpayers, which were a waste-to-energy (WTE) facility and its owner trustees, where city cited no evidence that would support a finding that the property's historical cost basis did not include developer's profit, and trial court reasonably could have concluded from the record that expert had assumed that it did not.