

Bond Case Briefs

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Fairfield Merrittview Limited Partnership v. City of Norwalk

Appellate Court of Connecticut - April 11, 2017 - A.3d - 172 Conn.App. 160 - 2017 WL 1234223

Taxpayer appealed decision of city board of assessment appeals upholding fair market value of \$49,036,800 for office building.

The Superior Court sustained appeal, concluded that fair market value was \$34,059,753 and ordered a reduction in the assessment. City appealed. The Appellate Court reversed. Taxpayer appealed. The Supreme Court reversed and remanded.

On remand, the Appellate Court held that:

- Superior Court's finding that building's net rentable area was 243,586 square feet was not clearly erroneous;
- Superior Court did not clearly err by excluding from calculation of building's potential gross income \$165,637 of interest income derived from taxpayer's money market account; and
- Superior Court did not clearly err by excluding from calculation of building's potential gross income \$14,264 in purported income from use of conference room in common area.

On appeal of city's 2008 tax revaluation of office building, trial court's finding that building's net rentable area was 243,586 square feet was not clearly erroneous, since trial court reasonably could have discredited conflicting testimony of taxpayer's and city's appraisers related to net rentable area, and trial court acted within its discretion when it considered taxpayer's 2006, 2007, and 2008 rent rolls but ultimately determined that 2006 annual income and expense report was more reliable.

On appeal of city's tax revaluation of office building, trial court did not clearly err by excluding from calculation of building's potential gross income \$165,637 of interest income derived from taxpayer's money market account, since parties' appraisers disagreed as to whether interest income was attributable to building itself, and trial court was therefore within its province to credit testimony of taxpayer's appraiser, who testified that interest and dividends should not have been included as income, under direct capitalization method, because income was unrelated to building, and that in his 25 years of experience he had never included interest income when calculating a property's fair market value pursuant to income capitalization approach.

On appeal of city's tax revaluation of office building owned, trial court did not clearly err by excluding from calculation of building's potential gross income \$14,264 in purported income from use of conference room in common area, since trial court was presented with conflicting testimony as to whether conference room was amenity provided to tenants, or whether tenants were required to pay fee to use conference room, which could be considered as income, and thus trial court either could have reasonably concluded that building did not receive income from conference room, or reasonably could have found that it lacked sufficient evidence as to consistency of conference room's use for income-generating purposes.

