

Bond Case Briefs

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Walgreen Eastern Company, Inc. v. Town of West Hartford

Supreme Court of Connecticut - July 24, 2018 - A.3d - 329 Conn. 484 - 2018 WL 3468411

Pharmacy tenant brought action to challenge decision of town board of assessment appeals regarding valuation of real property.

The Superior Court entered judgment in favor of taxpayer in part and determined value of property. Taxpayer appealed.

The Supreme Court of Connecticut held that:

- Court was required under the income capitalization approach to consider both contract rents and market rents;
- Court properly considered pharmacy tenant's leasehold interest as one indicator of the true and actual value;
- Evidence was sufficient to support finding that continuing use as retail pharmacy was highest and best use of property; and
- Tenant failed to establish that assessment of real property was manifestly excessive.

Court considering assessment of pharmacy property subject to 75-year lease was required under the income capitalization approach to consider both contract rents and market rents.

Trial court properly considered pharmacy tenant's leasehold interest as one indicator of the true and actual value of the owner's interest in the subject property, and consideration of actual rents did not lead to improper value of leased fee interest rather than fee simple interest; valuation under the income capitalization approach was required to consider both contract rent and market rent, and court was able to consider the value of the leasehold interest in connection with the other substantial evidence regarding the true and actual value of the subject property, and, on the basis of all of the testimony and evidence presented at trial, determined the true and actual value of the subject property.

Evidence in tax appeal was sufficient to support finding that continuing use as retail pharmacy was highest and best use of property; experts noted existence of national chain pharmacy submarket, and there was evidence of the property's special features for a national retail pharmacy, including that it was a freestanding building with a corner location and with a traffic signal at the intersection, which had been remodeled to pharmacy tenant's specifications and was under a triple net lease.

Pharmacy tenant failed to establish that assessment of real property subject to long term lease was manifestly excessive based on comparison to other properties in town; town applied the same process to valuing the other properties that it applied to the subject property, other properties were dissimilar to the subject property because they were smaller, less recently remodeled, and not stand alone buildings at a corner with a traffic signal, and town's original \$5,020,000 assessment overvalued property only by \$120,000.

