

# **Bond Case Briefs**

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## **TAX - NEW JERSEY**

### **Reservoir v. Township**

**Superior Court of New Jersey, Appellate Division - August 22, 2019 - A.3d - 2019 WL 3949208**

Taxpayer which operated a reservoir brought multiple actions challenging township's assessment of property taxes.

After trial, the Tax Court affirmed the assessments but also awarded taxpayer a functional obsolescence deduction. Taxpayer appealed and township cross appealed.

The Superior Court held that:

- Tax Court could use trended cost analysis to value the reservoir;
- Tax Court's could trend construction-related costs; and
- Evidence supported Tax Court's award of a functional obsolescence deduction.

Original construction costs of a reservoir were reliable for purposes of ascertaining true value of taxpayer's reservoir, and thus Tax Court could use trended cost analysis to determine value in taxpayer's action challenging tax assessments; the reservoir constituted special purpose property, there were detailed cost compilations available regarding reservoir's construction, and employee responsible for estimating the original construction costs testified as to these costs.

Soft or indirect costs such as engineering and architect's charges, environmental site planning, interior design, the expenses of a landscape architect, the cost of bringing utilities to the site, project supervision, a traffic consultant, financing charges, interest and taxes during construction, insurance and legal fees are all properly included in the cost of improvements for the purpose of establishing real property's true value.

Tax Court's choice to trend under trended cost analysis the costs incurred by taxpayer in settling claims with a contractor, public relations, and installation and maintenance of a bubble for continuation of construction work on taxpayer's reservoir during the winter did not constitute reversible error reservoir in taxpayer's action challenging property tax assessments; as a matter of law, the Court could consider public relations a reasonable expense incidental to construction of a controversial project such as the reservoir and record showed that the construction-related costs were those that any prudent person replacing the reservoir would have paid.

Evidence was sufficient to establish that the original costs incurred by taxpayer in constructing a reservoir were reasonable and reliable, supporting Tax Court's decision to award taxpayer a deduction for functional obsolescence based on increased construction costs; although the project stayed within budget, the record showed that bad weather and a poorly performing project manager imposed additional expenses on taxpayer.

