Connecticut Association of Assessing Officers, Inc.

John Rainaldi, President
Town of Manchester

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Lawrence G. LaBarbera, Treasurer
Pam Deziel, Secretary

February 24, 2016

Testimony- Planning and Development Committee

John Rainaldi, CCMA II, CCMC, RCG
President, CAAO

Members of the Planning and Development Committee:

As President of CAAO, I respectfully request that you support HB 5183, An Act Concerning Attorney Fee Agreements in Municipal Tax Appeals. CAAO respectfully requests adding the following language to this bill:

(b) In any appeal pursuant to this section, any appraiser, tax representative, or person acting on behalf of the property owner shall be precluded from entering into an agreement with the property owner in which their compensation is based on the outcome of the proceedings or a contingency fee basis.

As highlighted in December 2014 by *Connecticut Magazine,* many Connecticut municipalities are often confronted with tax representatives and attorneys who are hired by taxpayers in Connecticut to appeal their assessments. This is often done as a matter of business practice by larger, commercial property owners, in every revaluation, and sometimes even without a revaluation having been conducted. Most assessors can state with near certainty which of their taxpayers will file an assessment appeal contesting the town's value on their real estate, even before the appeal is filed. While often taxpayers have legitimate concerns about the value the town has placed on their property, there are also many cases where it simply does not matter what value the town estimates; it will be appealed regardless. I had a representative of a major commercial taxpayer in the town I work in tell me, "I don't care what your value is; I will appeal and take you to court anyway." I've had several other major commercial taxpayers in town make very similar statements. One time, a property manager for an apartment complex in town said during a Board of Assessment Appeals hearing: "We know the property is worth what you say it is; we just don't want to pay taxes on that amount."

I think most Assessors are willing to objectively look at their values and in cases where they are shown to be too high, make adjustments. Statistically, the vast majority of our appeals in Superior Court are resolved with an assessment reduction, and without a trial.

However, it is a major concern for CAAO and the municipalities that we represent that many of the tax representatives, and even some attorneys, who appear at informal revaluation hearings, Board of Assessment Appeal hearings, and at Superior Court, are not certified appraisers, though they often represent themselves as such. They are also very often working on a contingent fee where the amount of money they are paid is based on the size of the assessment reduction they obtain. A major tax representation firm is paid 50% of the reduction in taxes over the life of the revaluation. In cases of properties valued in the millions of dollars, this could easily result in a payment to the tax representation firm well into the hundreds of thousands of dollars. These "appraisals," are not conducted in accordance with any professional valuation standards, such as USPAP, are often being conducted by people who have no appraisal training or license, and sometimes the tax representative has never even visited the property they are appealing. Yet these documents are often treated as creditable appraisals when presented, and given as much or more weight than the town's valuation, which is performed by certified professionals.

It is my belief that the system as it currently exists does not act in the best interests of Connecticut citizens, and is in conflict with existing statute, court-case law, and the 2002 Declaratory ruling on this subject by the Connecticut Real Estate Appraisal Commission.

Connecticut General Statutes Sec. 20-501 states: *(a) No person shall act as a real estate appraiser or provisional appraiser or engage in the real estate appraisal business without the appropriate certification, license, limited license or provisional license issued by the commission, unless exempted by the provisions of sections 20-500 to 20-528, inclusive.* In addition, Connecticut General Statutes, Sec. 20-500 (1) states: *"Appraisal" means the practice of developing an opinion of the value of real property, in conformance with the USPAP.* (USPAP is the "Uniform Standards of Professional Appraisal Practice").

The Declaratory Ruling by the Connecticut Real Estate Appraisal Commission (July 10, 2002) states: *We therefore hold that a real property tax consultant operating in the State of Connecticut can only engage in the practice of providing property tax consulting services to his/her clients where that consultant does not engage in and of the following activities: (1) develop, for a fee or other consideration, a mass appraisal, mass appraisal model, or appraisal, as those terms are defined within the definition section of the Uniform Standards of Professional Appraisal Practice ("USPAP"), with the caveat that the real property tax consultant may nevertheless search the market; develop comparable sales or an income stream and present that data on a grid or other format to the Assessor, the municipal board of assessment appeals and others so long as the product presented is not labeled as an appraisal report and does not fall within the requirements found in Standard 2 of USPAP, as hereinafter amended, for either a self-contained appraisal report; a summary appraisal report; or restricted use appraisal report; (2) perform, for a fee or other consideration, an appraisal review assignment, as that term is employed within Standard 3 of USPAP, as hereinafter amended; (3) perform an appraisal of real property, for a fee or other consideration, as that term is defined within Conn. Gen. Stat. Sec. 20-500; (4) serve as an advocate for his/her own opinion of fair market value; and (5) provide appraisal services without compensation on an expressed or implied understanding or agreement that the client will compensate him/her for his/her appraisal work by paying for some non appraisal portion of the consulting service.*

And the decision in the case of Yankee Gas v. City of Meriden (CV960072560S, April 20, 2001) states: *Fairness and impartiality are threatened where a private organization has a financial stake in the amount of tax collected as a result of the assessment it recommends." Id. When an auditor is hired based on a contingent fee basis, there is an inherent and initially unfounded assumption that the original assessment was wrong...Contingent fee arrangements may very well lead to unfair results, as in the instant case.*

It is the belief of many that these documents make it very clear that a tax representative working in Connecticut, who is by definition a third party, is conducting an appraisal when they prepare, provide sworn testimony, and advocate for their value in front of a Board of Assessment Appeals or Superior Court magistrate or judge. It seems clear that a tax representative may not act as an appraiser without being properly certified by the State of Connecticut to do so, and that their assignments must conform to USPAP. USPAP very clearly states that no one conducting an appraisal can work on a contingent fee. Yet most assessors, when confronted with the work of tax representatives find the tax representative's one-page direct capitalization income analysis, is given the full weight and credibility of an appraisal, despite the lack of adherence to standards or certification requirements by the person who prepared it.

Therefore, on behalf of CAAO, I ask you for your support in rectifying these issues, and thank you again for your interest in this topic.

Respectfully,

John Rainaldi
President, CAAO